Supreme Court, U.S.
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No. _____

In The
SUPREME COURT OF THE UNITED STATES

October Term 1996

Joan Godwin PIERSON,
Petitioner Pro Se

v.

State of California,
Wilshire Terrace Corporation,
Mitchell Silbrberg & Knupp
Respondents

On Petition For Writ Of Certiorari
To The California Supreme Court

PETITION FOR WRIT OF CERTIORARI

Joan Godwin Pierson
Petitioner Pro Se

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State trial court ignored in two actions satisfaction and unsigned, protested lease. Non-profit cooperative housing association Wilshire Terrace dismissed the first action after satisfaction, then filed a second on the same attorney fees against pro se shareholder Joan Pierson residing in another state. State Appeal Court mooted all Pierson's claims after twice dismissing same appeals and twice awarding costs on appeal to respondent. Reviews denied.

QUESTIONS

Whether individuals' right to free speech, as right to be heard within a court of law is as fundamental as is the right of press, commerce, etc to be heard in public forum, under U.S. Const. Amend. I & XIV.

Whether civil double jeopardy is imposed by State court's twice sanctioning aggrieved appellant "costs on appeal" without hearing appellant, after twice dismissing three appeals without hearing the merits or considering appealability of post judgment orders, all in multiplicity of civil suits based on unconstitutional contract and State codes, in violation of U.S. Const. Amend. I, V, VIII and XIV.

Whether the right to refuse to contract is protected against government interference where private, unilateral, unsigned contract authorizes confiscation of co-op ownership by eviction, ejectment, or expulsion, waiver of jury trial right etc; if so, whether repeated demands for the same attorney fees based on an unsigned, protested contract are not binding under U.S. Const. Art.I, Section #10.

Whether equal protection rights, where appeals are on lack of jurisdiction and void orders and State Court of Appeals dismisses

appeal only on respondent's false claims that appeals were from sustained demurrers, are violated under U.S. Const. Amend. XIV.

Whether California Code of Civil Procedure #581; California Government Code #6201; and California Rules of Court #977), by helping one party to deceive the courts into twice denying the other party's rights, violate the Federal Constitution under Amend. I, V, VIII & XIV; and Art.I, Section #10.

Whether State court's mooting by order and by omission-from-Opinion all petitioner's claims and all live constitutional questions violates petitioner's rights of free speech; liberty interests; petitioning government for redress of grievances; equal protection; and due process, under U.S. Const. Amend.I,V, XIV.

OTHER QUESTIONS MOOTED BY STATE COURTS

The constitutionality of: a private, non-profit cooperative housing association ("Co-op") coercive waiver of homeowner's right to jury trial in an unsigned and disclaimed lease in which directors have right to confiscate property by nonjudicial eviction, ejectment or expulsion of a shareholder/property owner within five days without cause and without judicial relief; said Co-op being allowed to hold a shareholder, prevented from selling or donating her interest by false claims of "default," liable even if shareholder abandons property (purchased all-cash) interest (right to occupy unit); Co-op's lawfirm which has authored and often amended the Co-op leases in conflict of interest in representing Co-op directors against a Co-op shareholder/owner; denial of motion to correct misleading docket sheet errors; denial of access to oral hearing documentation, refusal to publish erroneous opinion; bad faith and others.

LIST OF PARTIES

All parties appear in the caption of the case on the cover page. Wilshire Terrace Corporation is a nonprofit cooperative housing association, which Petitioner believes has no subsidiaries.

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TREATISES

CEB (Continuing Education of the Bar)
1 Cal. Civil Appellate Practice 3d [CEB]
(Cont.Ed.Bar 1996) and
2 Cal. Civil Procedure Before Trial [CEB]
(Cont.Ed.Bar 1994)
see Pet.App.6, Opinion at Opinion pages 7,9

Moore Federal Practice, 2d Ed. vol.A ---- 2

Rotunda & Nowak, Treatise on Constitutional
Law; Substance and Procedure, 2d
(West Pub. 1992) ---------- 2,7

The Rutter Group. California Practice Guide:
Civil Appeals and Writs by Jon B. Eisenberg,
Ellis J. Horvitz, Justice Howard B. Weiner
1995.
see Pet.App.6, Opinion at Opinion pages 7,9

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PETITION FOR WRIT OF CERTIORARI

Petitioner Pro Se Joan Godwin Pierson submits this Petition for a Writ of Certiorari in this case against Respondent Wilshire Terrace Corporation whose counsel is Mitchell, Silberberg & Knupp, 11377 West Olympic Blvd. Los Angeles, California 90064, attorneys John Kuechle, Jean Nogues, Yakup Hazzard.

OPINIONS BELOW

Each decision is rendered twice as identical appeals were not consolidated.

On January 22, 1997 California Supreme Court denied a second time timely petition for review (the first time on July 24, 1996) of California Court of Appeals dismissals of the same actions. They appear at Petition Appendices ("Pet.App.") 1 & 2 to the petition.

On January 13, 1997 California Supreme court refused to docket Pierson's timely second Request for Temporary Restraining Order and Preliminary Injunction. The first request, included in petition for review. was ignored. It appears at Pet.App.3 to the petition.

On November 22, 1996 the California Appeals Court denied the second timely petition to rehear the second dismissal/costs award (mooting all one party's issues) not entering the order into the docket. On May 24, 1996 said court had denied the first timely petition to rehear the first dismissal/costs award. They appear at Pet.App.4 & 5 to the petition.

On November 05, 1996 California Court of appeals, in an Opinion mooting petitioners claims, for the second time dismissed appeal (BO81436) awarding costs on appeal to respondent. The first appeal dismissal/costs on appeal to respondent (#BO86583) was on May 07, 1996. They appear at Pet.App.6 & 7 to the petition.

On February 21, 1997 the second remittitur was issued by California Court of Appeals. On August 19, 1996 the first had been issued. They appear at Pet.App.8 & 9 to the petition.

JURISDICTION

The two dates on which the highest State Court denied review are July 24, 1996 and January 22, 1997. Neither denial comments. Copies of the denials appear on Pet.App.1 & 2.

A timely petition for injunctive relief was ignored in review denial on Jaunary 22, 1997 (Pet.App.1). A second timely petition was not accepted by the State Supreme Court.

Petitioner removed the litigation from State court to Federal 9th District Court on February 16, 1997 [docket 97-1576 R RCx was received 3/17/97, with incorrect judges name].

State Court of Appeals mooted all of petitioner's claims and constitutional questions State courts are not bound by U.S. Const. Art. III #2 (fn.1). Controversy requirement of Art. III, #2 renders federal courts powerless to decide State court's mooted issues. When only respondent's claims can be heard (fn.2), all petitioner's remedies are exhausted.

Appellant is entitled to invoke U.S. Supreme Court judgment where rights under Federal Constitution were denied in substance and effect by State court Opinion (Pet.App.6) on nonfederal grounds without fair or substantial support [Staub v. City of Baxley, Ga. (1958), 78 S.Ct. 277, 355 U.S. 313, 2 L.Ed.2d 302].

The jurisdiction of this Court is invoked under 28 U.S.C. #1257(a).

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fn.1. Rotunda & Nowak, Treatise on Constitutional Law; Substance and Procedure, 2d #2.13 at 175

fn.2. See Moore's Federal Practice, 2d Ed. vol. A #57.13 at 57-129: "Once an issue becomes moot, it no longer presents a justiciable controversy," citing numerous cases (Id. n1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The primary constitutional protections against denial of right to be heard and twice awarding "costs (Pet.App.6 & 9) on appeal" are the United States Constitution Amends.I (free speech), XIV (equal protection, due process, property), V (civil double jeopardy), and VIII (excessive fines), Art.I, Section #10 (contract rights); and California Constitution Art.1, Sec. 1, 2, 7. The State Court of Appeals mooted all live constitutional questions.

Other federal questions which State review court ruled moot involve property rights guaranteed in US Const. Amend. #XIV and CA. Const. Art.I, Sec. 1, 7; constitutionality of California Code of Civil Procedure #581, denying affirmative defense and conflicting with other California and Federal Statutes; California Government Code #6201, encouraging mutilation of files by ineffectual $1000 penalty; California Rules of Court #977, allowing obstruction of publication of an Opinion (Pet.App.6).

STATEMENT OF THE CASE

Background: Respondent co-op directors refused to replace petitioner's share certificate. Pierson stopped paying monthly fees. Respondent filed action #1 on April 05, 1993. On September 30, 1993 petitioner paid $39,222.43 (Pet.App.10) more than owed, subject to attached notices of final payment, then petitioner resumed monthly payments. When the check cleared (October 05, 1993) five days after plaintiff accepted satisfaction, respondent, continuing to refuse to provide petitioner's share certificate, claimed default and dismissed action #1

(November 05, 1993). Two weeks later plaintiff filed another lawsuit for additional $59,040.47 for the same attorney fees based on the same unsigned lease (see supra pp.i,ii,3; infra pp. 5,11,12,13,15. Now that State court of appeals denied petitioner's right to be heard. Respondent can evict, eject or expulse without cause and without compensation for all cash equity.

The California Court of Appeals Opinion quotes words Pierson never wrote; and orders (a) all of Pierson's arguments moot, (b) all appeals dismissed on ground of nonappealability in violation of California laws, (c) costs on appeal to respondent without hearing petitioner and (d) remand to trial court without comment on Pierson's constitutional questions, supporting authorities, validity of the actions or of the unsigned protested lease.

Review of said Opinion dismissing appeal and awarding costs on appeal to respondent was denied without comment as was review of the prior denial (see supra pp.1 & 2, and Pet.App.1 & 2). Petitioner Pierson's two requests for injunction were denied as were her numerous petitions for writs to both trial and appellate courts.

The actions are nonseverable. Respondent's prayers in both complaints request the same attorneys' fees. The Unlawful Detainer (#SC023196, 04/05/93 action #1 Clerk's Transcript ("C.T") I,vol.1 at 5:

"6. For reasonable attorneys' fees;
7. For costs of suit incurred herein;"

the Breach of Lease (#SC027184, 11/18/93 action #2), requests the same attorneys' fees. See C.T. II,vol.1 at 8:

"3. For reasonable attorneys' fees;
4. For costs of suit incurred herein;"

The State Court of Appeals first consolidated then severed the two actions

(action #2 had to be appealed three times before State Trial Court was willing to stay proceedings), and State Court of Appeals chose both times an incorrect ground for appeal based solely on respondent's two motions to dismiss, without any evidence that Pierson's opposition to dismissal had been read. Petitioner Pierson's grounds for appealability were never mentioned in any court generated document.

This petition relies primarily on petitioner's second opening brief (third appeal: #BO86583) filed, but ignored by State Courts, on April 03, 1996, before respondent filed first motion to dismiss; and appeal #BO81436 March 11, 1996 Supplemental Brief entitled "Appellant's Augmentation etc." [granted on February 26, 1996 as part of the record. See its summary of Pierson's principal argument Pet.App.11,p.57]; and April 05, 1996 "Application to Correct the Record to Include Change in Lease etc.," together identical to petitioner's second (#BO86583) opening brief. All are mooted. The first by abrogation, the others by November 05, 1996 Opinion [Pet.App.6]. Respondent filed no responses and delayed until September 10, 1996 the only hearing of actions which had been dismissed over five months earlier. Petitioner's briefs were never heard.

This carefully constructed ambiguity deliberately causes confusion to repel all courts from time-consuming efforts to ferret out truth, facts and issues. State courts never noticed petitioner's overpayment or respondent's suspect contract and violation of single action mandate, despite numerous requests for judicial notice, and writs for supersedeas, prohibition, mandate, and injunction, all denied by all State courts.

Politics must not be ignored where a system is controlled by expensive judicial elections being financed by powerful lawfirms

and corporations, or appointees chosen solely by State governors who in turn owe their own office to said powers. Where State courts can freely rule only on grounds fabricated by one party, State government cannot prevent biased, arbitrary discretion from superseding the law.

By procedural manipulation, the same appeals were dismissed twice: first by the back door (latest appeal dismissed first) on May 07, 1996 (Pet.App.7, p.51) without hearing, then by Opinion (Pet.App.6, p.23) without comment on petitioner's constitutional questions or defenses. Petitioner's briefs had never been heard.

Suppression of right to be heard at all State Court levels is also assured by denial (Pet.App.12,p.59) of Pierson's request (November 18, 1996) for access to documentation of the September 10 1996 oral hearing; and by the Opinion order stamped "NOT TO BE PUBLISHED" on both its cover (Pet.App.6 at 1) and as part of its final Disposition (Pet.App.6 at 12).

Pierson claims U.S. constitutional violations of the First, Fifth, Eighth, and Fourteenth Amendments and of Article 1, Sec.10.

REASONS FOR GRANTING WRIT

RIGHT TO BE HEARD

The fundamental right to notice and hearing guaranteed by the United States Constitution Amendment XIV through case law, is more than a century old. Baldwin v. Hale (1863), 68 U.S. 223, 1 Wall. 223, 17 L.Ed.531] states:

> "Parties whose rights are to be affected are entitled to be heard." [68 U.S. at 235]

However, the Baldwin Court used the verb 'heard,' not the procedural noun 'hearing.' A hearing is a proceeding (fn.3) To hear is to consider judicially (fn.4). The religious iteration, "the Lord has heard my supplications" (psalms 116.1) commonly means the Lord has given relief to the supplicant. The courts, as earthly providers of righteousness, cannot grant relief without hearing - considering judicially - the needs claimed. Free speech before deaf ears is not heard.

"(I)f any opinion is compelled to silence, that opinion for aught we can certainly know, be true" (fn.5). Impeccable procedure of the instant cases suppressed truth and silenced petitioner. In a spurious oral hearing, a State court listened to and repeated petitioner's on point authorities, then denied access to documentation of said hearing; issued a final Disposition (Pet. App.6 at 12) mooting under color of law all defenses by a veiled order mooting all relevant pleadings:

> "augmentation and correction are denied as moot. Costs are awarded to respondent. NOT TO BE PUBLISHED;"

and omitted all of petitioner's claims and authorities from said Opinion; then denied publication. The public interest cannot be served where judicial orders are contrived to suppress truth. One party litigation results.

The United States Supreme Court has held in many cases that freedom of speech under the First Amendment applies to the States under the

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fn.3. Black's Law Dictionary at 721, West Pub. 1996, (the word 'hear' is not enterd).
fn.4. New Shorter Oxford English Dictionary, vol I, at 1204, Clarendon Press, 1993).
fn.5. Rotunda & Nowak Treatise on Constitutional Law" #20.6 at 15 (West Pub. 1992) quoting John Stuart Mill's "On Liberty."

Due Process Clause of the Fourteenth Amendment. 44 Liquormart v. State of Rhode Island (1996), 116 S.Ct. 1495 at 1496, 1498, 1500, 1501n1, 1523 [517 U.S. ___].

Neither State nor Federal government can place bans without compelling need to do so on political, commercial and telecommunications rights where "regulations .. entirely suppress commercial speech in order to pursue a policy not related to consumer protection," [Id. at 1506 quoting Central Hudson Gas & Elec. v. Public Serv. Comm'n of N.Y. [(1980),447 U.S. 557, 100 S.Ct.2343, 65 L.Ed.2d 341 at 566].

Free speech and the public's right to information must be weighed against the State's interests in denying them. 44 Liquormart uses the Central Hudson test (at 566) of a four part analysis to determine First Amend. protection:

> ".. it at least must concern lawful activity and not be misleading. Next we must ask whether the asserted government interest is substantial. If both inquiries yield positive answers, we must determine whether the regulation directly advances the governmental interest asserted, and whether it is not more extensive than is necessary to serve that interest."

The four pronged test of whether freedom of speech is allowed requires lawful activity. A party to an action cannot file an unlawful claim in Court as it is the Court which must determine whether the claim is lawful.

However, the right of all individuals to freedom of speech guaranteed by the First Amendment must be balanced and weighed against whether government interests in suppressing free speech are substantial. The courts' primary interest in not hearing a party's claims appears to be concern for taxpayers' costs of

prolonged costly litigation and workload reduction. This must be weighed against the courts' right to hear only one side of an argument, even if only reversible error, and to suppress by mooting only one parties' live issues. Sppressing valid claims creates de facto denial of free speech, equal protection, and due process, all essential elements of a democratic society (44 Liquormart at 1512).

Must the Court's regulation directly advance a governmental interest? Does discretionary complete ban on petitioner's speech advance State judicial system interests? Petitioner contends that where one action is finally determined by payment and dismissal, the second, on the same attorney fees, is a nulllity which should be terminated without further procedure. State court of appeals however, has remanded all actions to trial court, apparently to reopen both the collaterally estopped first action as well as the second, after mooting all constitutional questions. The result is greater taxpayers' costs, not less. Government's significant interests of economy are not served or advanced. Reduced efficiency and prolonged nonjusticiable litigation, where all State courts hear only one party, defeat the courts as well as the taxpayers and the petitioner.

The final prong is whether the asserted government interest is not more extensive than is necessary to serve that interest. In the instant case, judicial interest in economy in avoiding delay and wasteful costs is more extensive than necessary in Courts' mooting constitutional issues and hearing only one party on the merits. Brookhauser v. State (1992), 10 Cal.App.4th 1665, 1678, 13 Cal.Rptr. 2d 658 states:

> 'the law requires appellate courts to search the ENTIRE (court emphasis) record, and to make their determination of sufficiency in

light of ALL (court emphasis) the evidence in the case. This approach qualifies the "in the light of most favorable" rule.'

Corrigan v. Superior Court (1925), 72 Cal.App. 383 (Corrigan) holds order dismissing an appeal duly perfected is annulled because it "is .. an attempted abdication of a jurisdiction which the court is bound in every proper case to exercise. It is .. a refusal to decide a cause which it is the plain statutory duty of the court to decide."

Pierson suffers a complete ban by State Courts' discretionary mooting and refusal to hear with no apparent State need. Petitioner contends a party's right to court access, free speech, to have affirmative defenses heard and weighed by the courts is of as great concern to fundamental freedom as are commercial rights.

Petitioner is entitled to invoke U.S. Supreme Court judgment where rights under Federal Constitution were denied in State court (see supra p.2). Petitioner contends that in addition to the right to U.S. Supreme Court jurisdiction (supra p.2) a party's right to be heard is guaranteed by the U.S. Const. Amend. I,V, and XIV, and that denial of said rights by State courts is violation of free speech, liberty interests (see infra p.12) due process and equal protection under the law. State courts have abused their discretion in refusing to weigh petitioner's claims. Thus the only remedy for a party to litigation whom State courts refuse to hear and which moot all said party's issues, is petition to the United States Supreme Court.

DOUBLE JEOPARDY

In the instant cases, aggrieved petitioner sustained injury where appeal was twice dismissed

with costs on appeal twice awarded to respondent (Pet.App. 6 & 9). Petitioner contends that: double sanctions against one party without hearing said party; State review Court's improper mooting of respondent's voluntary dismissal without prejudice of action #1; after receiving satisfaction; and State trial court's refusal to rule on dismissal or to vacate and enter dismissal with prejudice (which made the order appealable); validity of contract in both actions. action's action #2's demand for the same attorney fees, violates Amend.V protection against double jeopardy and Amend. VIII protection against excessive fines.

California Code of Civil Procedure #426.10 & #426.30; Carroll v. Import Motors Inc. (1995), 33 Cal.App. 4th 1429, 39 Cal.Rptr. 2d 791 (Carroll); Federal Rules of Civil Procedure #13 (a); and 2000 years' precedent require that all related matters be adjudicated in a single action, a fundamental principle of law since before the Christian era.

Fifth Amendment Double Jeopardy rights have been protected in criminal/civil multiple litigation. United States v. Halper (1989), 490 U.S. 435, 109 S.Ct. 1892, 104 L.Ed. 2d 487 holds that the same monetary penalties imposed twice are punishment which violates the Amend. V double jeopardy clause (at 439,443,448,449).

The strict policy against multiplicity of litigation (see Caroll pp.11,15,Pet.App.11) is civil double jeopardy. Pierson contends that the same penalty of costs on appeal based on multiple false premises is punishment, and thus double jeopardy. This Court held in Benton v. Maryland (1969), 395 U.S. 784, 89 S.Ct. 2056,23 L.Ed.2D 707 that the Fifth Amendment guarantee,

> "represents a fundamental ideal in our constitutional heritage, and that it should apply to the States through the Fourteenth Amendment (at 784, 789)."

A party's double jeopardy rights must be balanced, as in free speech rights, against government needs. State courts failed to introduce one scintilla of evidence that it had any needs contrary to those of petitioner. Pierson contends that it is self evident that the government better satisfies judicial needs in a single action than in a multiplicity of actions on the same matter. the Fifth Amendment protects criminals from double jeopardy. Montana Department of Revenue v. Kurth Ranch (1994), 114 S.Ct.1937, (at 1948) holds a second punishment must be imposed during the first prosecution or not at all.

Double jeopardy, whether punishment, penalty, risk, or by any other name, should not be inflicted by the very courts which are bound by law to protect law-abiding citizens.

An individual can be rendered helpless in court by obstruction of access to legal help, easily accomplished by adversaries who are powerful lawfirms and corporations. A helpless elderly individual, continually forced into court, risks suffering double jeopardy in all of its meanings of emotional loss and financial ruin as well as loss of home and reputation, just as do those in criminal courts. Petitioner contends that a criminal in jail is no less safe than an elderly woman forced penniless onto the streets.

RIGHT TO REFUSE TO CONTRACT

Petitioner Pierson's liberty interests also include liberty of contract, the right "at will, to .. abstain from making, a binding obligation enforced by the sanctions at law" (Black's Law Dictionary, West Pub. 1996) protected by U.S. Const.Art.I, #10. In the instant cases the State courts also ignored this right by refusing to acknowledge

constitutionally questionable ground of respondent/plaintiff's unsigned, unilateral contract. A detailed analysis appears in petitioner Pierson's #BO86583 opening brief identical to some #BO81436 pleadings (see Pet.App.17 for abstract of argument). State courts ignored and/or mooted them all.

This petition should be reviewed with special care and strict standard, lest creative attorneys receive the message that they can use the strategy of the instant actions (file alteration, obfuscation and delay of 6 month litigation into over four years) to manipulate the system with impunity, and exponentially increase taxpayers' costs, litigation time, and the Courts' workload.

Central Hudson, citing Ohralik v. Ohio State Bar Assn. (1979), 436 U.S. 447 at 456, 457, 98 S.Ct.1912, 56 L.Ed. 444, states:

> "The Constitution .. accords a lesser protection to commercial speech than to other constitutionally guaranteed expression" (Central Hudson at 563).

It follows that protection is greater for a party where a State court entirely suppresses only that party's claims. Questions of eviction, ejectment or expulsion as threat to said party's co-op equity must be addressed (fn.6). Petitioner contends that law-abiding individuals should have as great or greater free speech protection than commercial enterprizes and should not have less protection from double jeopardy than criminals.

California Rules of Court #1(a) states

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fn.6. The most recent U.S. Supreme Court co-op case, United Housing vs Forman (1975) 421 US 837, 44 L Ed 2d 621, 95 S Ct 2051, held only that Co-op ownership is of personal property non-negotiable securities, and that securites laws do not apply. State uniformity is lacking.

that a notice (see Pet.App.13) of appeal:

"shall be liberally construed in favor of its sufficiency."

balancing advantages of those experienced at at concisely stating grounds for appeal with those with lesser skills, to protect the appeal's substantial issues. However, too often a pro se is considered unworthy to be heard.

Petitioner is a pro se ("in pro per") litigant. Platsky v. C.I.A., 953 F.2d 26 (2d Cir. 1991) holds that "the Supreme Court has directed district courts to construe pro se complaints more liberally and to apply flexible standard when determining their sufficiency. And Simmons v. Abruzzo 49 F.3d 83, 87 (2d. Cir. 1995: "complaint of a pro se litigant is to be liberally construed in his or her favor."

The questions presented herein were created largely by unprofessional conduct on the part of Respondent attorney, massive alteration of files, and docket sheets which do not show that the three appeals are the same appeal, all of which indicate bad faith and possibly fraud (fn.7). Petitioner filed three reports on respondent's unprofessionl conduct in both State appeals and trial courts. The exhibits, including respondent's request for trial setting in trial court while still pending on appeal, are missing from

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fn.7. See Pet.App.14 and 04/22/96 "Notice of Respondent's Attempt to Reinstate Superior Court Jurisdiction of Issues still on Appeal.." [not entered on docket sheet]; and 06/21/96 "Report of (Respondent) Attorney Unprofessional Conduct .." [Ca. Court of Appeal #B081436 docket sheet #251 causing commotion and expense to both Courts and to Petitioner. See also Pet.App.15: an alledgedly independent, unbiased periodical published a false statement highly detrimental to petitioner Pierson, making respondent's cause appear legitimate.

petitioner's files and computer, and possibly from court records as well. "It just didn't happen." Motive of retaliation might be against petitioner's report of indicative evidence of one co-op director's prior knowledge of 1989 arson which devastated the co-op building. Pierson prays that this Court will consider the detriment to judicial systems if one party's deliberate fabrication and prolonged litigation is allowed as a tactic to exhaust, impoverish, and defame the weaker party. litigation

This unnecessarily complex four year old litigation could have been terminated within six months had it not been for CA. Code of Civ. Proc. #581, which, conflicting with other State codes (CA CCP #426.10, #426.30) and precedent (see PET.APP. 11), allowed multiple litigation over attorney fees after satisfaction and voluntary dismissal of the first action.

All actions are supported improperly by a protested, unsigned lease. Respondent dismissed the entire action #1. Petitioner contends that this was final judgment for petitioner and that action #2 is a nullity on ground of contract rights and civil double jeopardy. From New York v. Connecticut (1799) 4 U.S.1 to Carroll v. Import Motors Inc. (1995), a bright unbroken line of precedent abhors multiplicity of litigation, rendering subsequent litigation void ab initio (see supra p.5 and Petitioner's #BO86583 opening brief). Petitioner therefore contends that civil litigation should be protected under the double jeopardy clause in cases where the judicial system has been abused.

All State remedies have been exhausted. Federal courts cannot rule on constitutional questions mooted by the highest State Court. The U.S. Supreme Court alone can prevent State's complete suppression of one party's free speech in a David/Goliath controversy. The U.S. Supreme Court generally considers in favor of a holding

against mootness [U.S. Supreme Court Reports, 44 L.Ed. 745 at 752].

Accordingly, petitioner Pierson seeks specific relief of reversal of mootness and two appeal dismissals with costs on appeal; immediate and final termination of this entire litigation; and compensation for costs and loss of assets caused by prolonged vexatious lawsuits. Multiplicity of litigation virtually assures a reasonable expectation that the violation will recurr. Interim events continue to increase Pierson's injuries. Mooting defenses and exposing petitioner to loss of property and humiliation by eviction, ejectment or expulsion without cause assure further harm to petitioner.

If this Court grants certiorari, it will be in the interests of efficiency and financial economy for government needs and those of taxpayers and beleagered defendant to stay all proceedngs in the courts below until determination of all constitutional questions, any one of which petitioner claims would nullify the entire instant litigation. Petitioner Pierson herein so requests.

CONCLUSION

For all of these reasons stated herein, the Petition for Writ of Certiorari should be granted and all action below be stayed until constitutional issues are determined by the United States Supreme Court.

Dated:
April 17, 1997

Respectfully submitted,

_____

Joan Godwin Pierson
Petitioner Pro Se

4/17/97 Petition for Certiorari
LIST OF APPENDICES

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PET.APP.1:
Second denial of review 01/22/97

==========

Second Appellate District, Division Four, No. B081436

S057961

IN THE SUPREME COURT OF CALIFORNIA

Wilshire Terrace Corporation, Respondent

v.

Joan Godwin Pierson, Appellant

[SEAL stamped FILED JAN 22 1997 Robert Wandruff Clerk ---------- Deputy]

Appellant's petition for review DENIED.

GEORGE

Chief Justice

PET.APP.2:
First denial of review 07/24/96

==========

CALIFORNIA SUPREME COURT
Second Appellate District, Division Four
No. B086583
S054298

Wilshire Terrace Corporation, Respondent
v.
Joan Godwin Pierson, Appellant

Appellant's petition for review DENIED.

SEAL: Supreme Court
FILED
July 24, 1996
Robert Wandruff Clark

Deputy

GEORGE

Chief Justice

PET.APP.3
Second denial of injunctive relief etc.

==========

#BO81436 and #BO86583 on Los Angeles No.SC027184
IN THE CALIFORNIA SUPREME COURT

JOAN GODWIN PIERSON, INDIVIDUALLY) 2 CIV. #BO81436-
AND AS FORMER TRUSTEE OF THE FORMER #BO82466-#BO86563 on
JOAN GODWIN PIERSON LIVING TRUST,) SUPERIOR COURT
Plaintiff (App/def)) #SC023196 & #SC027184
vs.) [#SC027184 and
WILSHIRE TERRACE CORPORATION,) #SC023196 (BO81436)
Defendant (resp/pl)) #SC027184 and
#SC023196 (BO86583)]

,- "(APPLICATION)" handwritten

----v----

SECOND COMPLAINT FOR INJUNCTIVE RELIEF/DECLARATORY JUDGMENT; FOR STAY OF PROCEDURE; AND TO SAVE CONSTITUTIONAL ISSUES FROM MOOTNESS

"DECLARATION" handwritten

S	H
T	E
A	R
M	E
P	
SEE	
fn	

On Appeal From the Order of the Superior Court of California, County of Los Angeles

The Honorable Commissioner Bruce Mitchell and
The Honorable Judge Alan B. Haber.

JOAN GODWIN PIERSON
110 D Street S.E. #104
Washington D.C. 20003
telephone 202-546-1224
and
Wilshire Terrace, #9B
10375 Wilshire Boulevarq
Los Angeles, California 90024
telephone 310-278-2886
Joan Godwin Pierson,
In Pro Per

==========

fn to PET.APP.3 This timely second request for injunctive relief was filed, cover stamped "97 JAN 13 P 2:06 SUPEME COURT LOS ANGELES," but the court clerk said that it would not be docketed. This pleading for injunctive relief, stay, and savig constitutional issues from mootness, and (handwritten) declaration was not mentioned in any court generated documents.

PET.APP.4
Second denial of rehearing 11/22/96

==========

OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH a. lANE, cLERK

DIVISION: 4, DATE: 11/22/96

Joan Godwin Pierson
10375 Wilshire Blvd
#9B
Los Angeles, CA. 90024

RE: Wilshire Terrace Corporation
VS.
Pierson, Joan Godwin
2 Civil BO81436
Los Angeles NO. SC023196 [should be "SC023196/SC027184"]

THE COURT:
Petition for rehearing denied.

==========

fnPA4. There is no further print on document.

PET.APP.5
First denial of rehearing 05/24/96

==========

CALIFORNIA COURT OF APPEAL

****

FILE COPY

****

OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH A. LANE, CLERK

DIVISION: 4 DATE: 05/24/96

Joan G. Pierson
10375 Wilshire Blvd
#9B
Los Angeles, CA. 90024

RE: Wilshire Terrace Corporation
vs.
Pierson, Joan G.
2 Civil BO86583
Los Angeles NO. SC027184

THE COURT:

Petition for rehearing denied (fnPA5)

---

fnPA5: Petitioner was unable to obtain a copy of the original order. This is a typewritten copy of the document given to Petitioner by a file clerk of the California Court of Appeal.

PET.APP.6

State Court of Appeals Opinion (annotated here)

==========

NOTE: California Court of Appeals Opinion dismisses all appeals, moots all constitutional questions, and awards respondent a second costs on appeal without hearing appellant. A holding of nonappealability is determined only by respondent's false claims in motion to dismiss that appeals regard demurrers, whereas in fact, the instant appeals are all on lack of jurisdiction of the second of two actions, a fact never acknowledged by said Court. All appeals protest all void orders and procedures. Most of Opinion's supporting authorities concern demurrers, thus they too are inapplicable to the instant appeals of lack of jurisdiction. Said Opinion is so fully in the style of and so exclusively supporting respondent's interests that petitioner thought her copy had been written by respondent. Then Petitioner obtained a certified (on a separate piece of paper) copy from said Court. It was the same. Petitioner contends that said Opinon is also a morass of prejudicial, misleading, arbitrary, capricious, statements and omissions, and that if the following is in fact State Court's Opinion, such abuses of discretion are prejudicial to petitioner and an unconstitutional distortion of facts and procedure to suppress substance. "NOT TO BE PUBLISHED," its first words, are also mandated by p.12 DISPOSITION. Petitioner's indented comments on "ERRORS" do not cover all errors, as Opinion errors are too numerous.

========== end of note ==

Annotated PAGE 1 OF OPINION

"NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

WILSHIRE TERRACE CORPORATION,	BO 81436
Plaintif and REspondent	(Super.Ct.No.SC023196
v.	and SC027184
JOAN GODWIN PIERSON,	FILED NOV 05,1996
Defendant and Appellant.	JOSEPH A. LANE Clerk

PET.APP.6 Annotated PAGE 1 OF OPINION [con't]

APPEAL from a judgment of the Superior Court of Los Angeles County, Alan B. Haber, Judge. Denied and Dismissed.

Joan Godwin Pierson, in propria persona, for Defendant and Appellant.

Mitchell, Silberberg & Knupp, Jean Pierre Nogues and Yakub Hazzard for Plaintiff and Respondent."

PAGE 2 OF OPINION

After respondent voluntarily dismissed its unlawful detainer action against appellant, appellant unsuccessfully moved to have the clerk's entry of dismissal vacated, and a

ERRORS: Numerous code and case law and treatises support appealability of denied motion to vacate where court refused to exercise discretion, thus making order nonappealable, dismissal a final judgment. //////// Ground of all three appeals is that that action #2 violates the strict policy against multiple litigation, and is therefore lacking jurisdiction. Petitioner pro se unaware of this policy, stated that the first [allowed respondent to] "refile the case for additional money under the new case #SC027184; the second: satisfaction and facts in case #SC023196 .. render case #SC027184 fatally defective; the third: the court "acted in excess of jurisdiction (with) bias and prejudice in all particulars." Petitioner never appealed a minute order, demurrer or motion to strike.

dismissal with prejudice entered. Appellant has appealed from the denial of her motion to vacate. Respondent then filed a subsequent action in which appellant filed a cross-complaint. Appellant has appealed from an order sustaining respondent's demurrer to the cross-complaint

ERROR: Lack of jurisdiction and thus all void orders were appealed, not demurrers. Petitioner pro se, unaware of the proper terminology [see Ca.Rules of Ct. #1(a)], stated that the first appeal [allowed respondent to] "refile the case for

PET.APP.6 Annotated PAGE 2 OF OPINION [con't]
additional money under the new case #SC027184 [see Pet.App.16: mutilated appeal #1]; appeal #2: facts (satisfaction) in case #SC023196 .. render case #SC027184 "fatally defective;" the third: the court "acted in excess of jurisdiction ..(with) bias and prejudice in all particulars" Petitioner never appealed a demurrer or a motion to strike.

with leave to amend. Appellant's appeal from the denial of her motion to vacate in the first action has been consolidated with her appeal from the order sustaining respondent's demurrer

ERROR: Lack of jurisdiction and thus all void orders were appealed, not demurrers.

in the second action. Both appeals are from orders which are not appealable, and we must

ERROR: Lack of jurisdiction and thus all void orders are appealable. Petitioner appealed lack of jurisdiction and all void orders, not demurrers.

dismiss them, the first on our own motion, and

ERROR: Dismissed on Court's own motion without Court having considered authorities suppporting appealibility [see petitioner's briefs in both actions, and numerous cases and treatises supporting appealability].

the second on motion of respondent.

STATEMENT OF THE CASE

1. The unlawful detainer action

On April 5, 1993, respondent, as the owner

ERRORS. The directors of the Corporation (not the "apartments") are not the owners, but only administrators who have abused their fiduciary duty to shareholder/ petitioner Pierson, who has an equitable interest in the Corporation.

of the Wilshire Terrace Apartments, filed a

ERRORS. Using the word "apartments" for a co-op appears to be deliberately misleading. In fact each resident owns the right to occupancy by equity interest.

Complaint for Unlawful Detainer in Superior Court, case No. SC023196. the complaint alleged that appellant was a shareholder in the Wilshire Terrace stock cooperative and lessor of Apartment 9-B under a Poprietary Lease. It

> ERRORS. The lease signed by petitioner was unilaterally terminated by directors in 1981. The "Proprietary Lease" under which this entire litigation rests is also unilateral. Petitio ner refused to sign it and formally disclaimed it as unconstitutional and adhesive.

claimed that appellant was delinquent in her rent by the sum of $27,915.93. Paragraph 15 of the complaint alleged that the lease contains a provision for attorneys fees and that

> ERROR. Petitioner had asked State Courts to weigh constitutionality of an adhesive, unsigned, disclaimed lease. Instead, State court of Appeal twice awarded costs on appeal without considering that the entire litigation is a nullity where based on an unsigned lease.

respondent had retained the firm of Mitchell, Silberberg & Knupp as its attorney to recover

> ERROR. State courts did not consider the fact that said lawfirm has been representing the corporation and drawing the co-op leases for at lease seventeen years, therefore representing directors (respondent) against equity shareholder (petitioner) is a conflict of interest.

possessions of the premises. The prayer requested immediate possession, a declaration of forfeiture, an award of past due rent, damages at the rate of $27.95 per day from December 31, 1992, and for so long as appellant remained in possession, treble damages, reasonable attorneys fees, and costs of suit.

Appellant representing herself in propria persona, responded with a motion to quash service of summons, which was denied on April 29, 1993. Appellant filed her answer the same day.

On August 27, 1993 respondent filed an at issue memorandum, and the matter was set for trial on September 20, 1993. Appellant retained

ERROR AND OMISSION. Petitioner never approved trial date, and had dismissed attorney on September 19, 1994 for taking petitioner's deposition off calendar without petitioner's knowledge or consent.

counsel, and the trial date was vacated upon stipulation. On September 22, 1993, appellant filed a substitution of attorney resuming her pro.per. status.

On September 22, 1993, a notice of delinquincy was served on appellant indicating that she was delinquent in the total amount of "$38,178.68, exclusive of interest." The notice further stated: "This instrument constitutes the notice required by paragraph 18(d) of the Proprietary Lease. As provided in said paragrph, you will be deemed in default under the Proprietary Lease in the event that the aforementioned sums are not paid within ten (10) days after this Notice has been given."

On September 30, 1993, appellant issued a check in the amount of $39,222.43 to respondent as "payment in full through the month of October 1993 .." On the same date appellant sent a letter to the law offices of Mitchell, Silberberg & Knupp in which she advised that she had paid the monies claimed due and "I hope stipulating with me a request for dismissal with prejudice." On the same day a representa-

ERROR. Petitioner thought that payment of more than owed would end litigation. (Repondent directors had refused to give accounting of the over two years following a 1989 fire in which no payment was due.) Petitioner at that time did not even know there was more than one kind of dismissal. Petitioner learned the difference between with and

PET.APP.6 Annotated PAGE 2 OF OPINION [con't]

without prejudice over a month later, only after October 29, 1993 when respondent's defective first dismissal without prejudice in order to file (November 19, 1993) yet another action, for more money on the same attorney fees prayed in the unlawful detainer. Paymewnt had only caused misery for petitioner.

tive of the management company for respondent acknowledge (sic) receipt of the check "with enclosures."

On October 13, 1993, a letter was sent to appellant by counsel for respondent relating to "LASC Case No. SC 023 196" advising her that "[o]n October 5, 1993, the [respondent] passed a resolution assessing additional rent to you in the amount of the attorneys' fees and costs incurred in connection with the above-referenced litigation. This amount is assessed to you pursuant to paragraph 29 of your lease .."

ERRORS. An unsigned disclaimed lease is not binding. Therefore attorneys fees are not owed by agreement. Attorney fees assessed a second time after accepting petitioner's money, cannot be the ground for additional litigation. See "Double Jeopardy" and passim on directors; violation of the strict policy against multiplicity of litigation;

Enclosed with the letter was a billing by the attorneys to the management company on behalf of respondent in the sum of $54,090.49. the letter closed with the following admonition: "If you do not pay the total sum assessed within ten days, [respondent] will take such steps as it deems necessary and appropriate to enforce its rights, including amending the existing law suit against you or filing a new suit." On October 25, 1993,

Annotated PAGE 4 OF OPINION

respondent served on appellant a notice of delinquency in the sum of $54, 090.49 and advised that if the sum was not paid within ten

PET.APP.6 PAGE 4 OF OPINION (annotated). [con't]
days appellant would be considered in default and respondent would "take such steps as it deems necessary to enforce its rights."

ERROR. Respondent did not have the right to charge default, as petitioner had paid and respondent had accepted more than demanded. Respondent then dismissed voluntarily without having resolved all of its claims, so forfeiting the right to another action on the same attorney fees.

On November 2, 1993, appellant filed a document entitled, Request to Take Judicial Notice in Opposition to Plaintiff's Request for Dismissal Without Prejudice Which is Defective: It Does Not Specify Area in Which

MISLEADING OMISSION AND FILE ALTERATION. Opinion skips the defective first (October 29,1993) dismissal without prejudice, which does not specify "entire action." Curiously, petitioner's pleading to the Court to take notice of said defect [Court Transcript (C.T.I, vol.2 at 470] is stamped "NOV 02 1993," yet the exhibit to the pleading, "REQUEST FOR DISMISSAL" is stamped (at 477) "NOV 04, 1993," Unquestionably this record, like so many others has been altered. It is not possible to include in a pleading a document dated 2 days after filing This follows a pattern of alterations, omissions and other manipulations to supress the facts and issues. By leaving blank choices for dismissal coverage The dismissal form has boxes to be checked for: entire action, complaint only, petition only, cross-complaint or "o ther"), someone can insert the preferred partial dismissal, thus leaving open the causes neglected by respondent in the first action open to more multiple actions.

Dismissal is Requested." Appellant noted that she had paid respondent in full, the sum of

$39,222.43 and that respondent had then demanded an additional amount of $54,090.43 (sic) she objected to any dismissal without prejudice "[Appellant] has made it clear that the Request for Dismissal Without Prejudice is merely to refile the same Complaint, this time assessing attorneys fees as rent, which is not legal without agreement."

ERROR. The Opinion again relies on false altered quotes as foundation for its Disposition. It would be stunning if respondent were not the author of the Opinion.

On November 4, 1993, respondent filed a request for dismissal of the action without

MISLEADING OMISSION. This makes it appear that petitioner filed her two day prior request for notice of defective dismissal before she knew of a dismissal. What court would want or have time to bother with this carefully constructed quagmire of false and/or altered records.

prejudice, and the clerk entered the dismissal the same day.

MISLEADING OMISSION of the hearing on petitioner's amended answer to inform the court of payment. It appears that it was not read. When petitioner orally stated that payment had been accepted, the court turned to respondent attorney and asked if that were true. The court also stated that the court did not have the disretion to change a clerks entry.

On November 18, 1993, appellant filed a "Notice of Motion and Motion to Vacate Judgment and Enter Different Judgment; Memorandum of Points and Authorities; Declaration [ ] CCP #663," by which she sought to have respondent's dismissal without prejudice vacated, snd a dismissal with prejudice entered. She relied upon Code of Civil Procedure section 581,

ERROR AND MISLEADING OMISSION. Petitioner /defendant relied on sound authority including CA. Rules of Court #373,

PET.APP.6 Annotated PAGE 4 OF OPINION [con't]
and cases too numerous to cite limiting court discretion ("not unfettered"). See C.T.I, vol.2 at 484ff).

subdivision (i) which provides that a plaintiff has no right to dismiss "where affirmative relief has been sought by the cross-complaint of a defendant." she also argued she had paid

ERROR. see also expanded affirmative defense in appeal #BO81436 supplemental brief and #BO86583 opening brief.

the rent in full and that it was unfair of

ERROR. Petitioner did not pay "rent." Petitioner paid homeowner fees. "rent" is a new co-op statement term added soon after the directors decided to demand another $54,090.49 after accepting petitioner's $39,222.43. Monthly statements have always identified co-op services as "homeowner fees."

respondent to be allowed to dismiss the first action and continue to harass her by demanding payment of the attorneys fees incurred by respondent in the first action. the motion was heard and denied on December 15, 1993.1

---

1 Omitted from this summary are the many facts argued by both parties relating to the underlying controversy, discovery disputes, and appellant's efforts to obtain a stay of the superior court (sic) proceedings, as they are not relevant to the issues we must decide here.

ERROR. Footnote 1 is the first two of four statements that petitioner's pleadings are not relevant. If "the underlying controversy" is "not relevant," the litigation itself is not relevant, is in fact, as petitioner contends, a nullity for lack of valid contract, on which nevertheless, this entire litigation, including this Opinion, is based. Again "300 pages in the (at 5): "Clerk's Transcript" has "no conceivable relevance." If so why does State court quote from the altered portions of said transcript,

PET.APP.6 Annotated PAGE 4 OF OPINION [con't]

all of which quotes are detrminental to petitioner and advantageous to respondent? See also infra at 6 and 7.

Also omitted from this procedural history is the summary of the 300 pages included in the

(see end of page 5)

PAGE 5 OF OPINION

Appellant filed an appeal from the order denying her motion.

2. Breach of lease action.

On November 19, 1993, respondent filed its "Complaint for Breach of Lease" in Superior Court case No. SC027184. The complaint seeks recovery of $54,090.49, the attorneys fees incurred by respondent in case No. SC 023196, which were declared to be past due rent by respondent pursuant to the terms of the lease agreement.

ERROR. "(T)he terms of the lease" are not binding as to specific unilateral determinations that "rent" equals "attorney fees" where one party disclaims as unconstitutional and refuses to sign said lease. Petitioner pays her monthly homeowner fees in a regular and timely manner. Respondent accepts said monthly payments without ever acknowledging receipt. Petitioner has never even been given receipt for her September 30, 1993 payment of $39,222.43.

On December 20, 1993, again representing herself, appellant filed an answer and cross-complaint. The cross-complaint contained seven causes of action, entitled respectively: "Breach of Fiduciary Duty by Board of Drectors [sic] Causing Constructive Conversion of Pierson's Property; Fraud; Unconscionability; Obstruction of Pierson's Sale of Her Interest in WTC; Harassment; Violation of Civil and Constitutional Rights; Intentional Infliction of Emotional Distress." One of appellant's complaints concerned the fact that respondent

had received full payment in th first action, dismissed the action without prejudice, and then filed this action in an attempt to collect the attorneys fees. "Whether or not

> ERROR AND OMISSION. "attempt to collect the attorneys fees" omits the original key issue of this controversy: attempt for a second time after voluntarily dismissing the first demand. Furthermore, now pending in the California Supreme Court are two cases in which the prevailing party contends the right to attorney fees. Although petitioner was not the prevailing party in terms of satisfaction, and subjected to more vexatious frivolous litigation and more demands for money not owed, State court stated that petitioner WAS the prevailing party.

this court finds that [respondent] has the right to take, first $39,222.43, about $10,000 more than [appellant] owed, then, the same day [appellant's] check cleared, demand another $54,090.49, this form of extortion is unconscionable." Attached to the cross-complaint was a "Declaration" (not signed by appellant under penalty of perjury) to support the cross-complaint.

> ERROR. The cited document is not available to petitioner at this time, but whether pwtitioner omitted an inconsequential detail or whether the document was altered to appear so, State court seems to have an amazing ability to rule on the most obscure minutiae apparently detrimental to petitioner, and forget or chose not to observe even the most cogent of pe titioner's arguments. It is the plethora of omissions and comments like this which varnish the plausability of respondent attorney, or an agent of said attorney having written this Opinion.

In her answer, appellant raised the same issue as follows: [Respondent] acknowledged (1)

accord and satisfaction by accepting [appellant's] check for $39,222.43, about $10,000 more than demanded in the Complaint for Unlawful Detainer #SC023196, which, [appellant] believes, was (2) improperly dismissed without prejudice, thus enabling this case to be filed. Thereby [respondent] is able to continue (3) under

---

Clerk's Transcript regarding discovery matters, which have no conceivable relevance to this appeal.

ERROR. If a 300 page transcript has no relevance, is this another indication that petitioner has not been heard and that hearing the merits in the instant litigation means hearing only respondent? Every word in this Opinion so indicates.

(continuation of page 4 fn).

color of law to (4) harass [appellant] and attempt to force [appellant] out of her home with manipulated claims of attorneys fees as 'rent,' to which [appellant] never agreed ..."

On January 20, 1994, respondent filed a motion to strike portions of the cross-complaint and the "Declaration" in its entirety, along with a demurrer to the cross-complaint.

On February 2, 1994, instead of filing opposition to the motion to strike and the demurrer, appellant brought a petition for writ of supersedeas in this court, seeking a stay of the proceedings pending her appeal in the unlawful detainer action. Appellant then

ERRORS, MISLEADING STATEMENTS: There follows a long list of petitioner's pleadings repeatedly asking the State courts to take notice of satisfaction, protested unsigned unilateral lease on which all of the instant litigation is based, and request for relief from vexatious multipllicity of litigation.

requested the superior court to continue the

hearing on the demurrer, in a document entitled "Request for Required Judicial Notice of Court of Appeal Jurisdiction and of Notice or Motion and Motion for Amended Answer in Case #SC023196 Filed October 22, 1993." This court denied

ERROR AND MISLEADING STATEMENT. The above misinterpretation of a request in action #2 (#SC027184) to notice appellate jurisdiction as if it were a request to trial court to continue an action #2 hearing on a demurrer is not a credible statement for a justice of an appellate court, especially if said justice had read the action #1 (#SC023196) motion for amended answer to notify action #1 court of payment and satisfaction. It does appear that the statement was lifted straight out of respondent's many misleading pleadings, without examining the record. This Opinion is of appeal #B081436 in which actions #1 & #2 (State superior court ##s SC023196/SC027184) had long before been consolidated.

(denied) appellant's petition on November 4, 1993.

ERROR. False implication that all requests for relief were groundless, whereas petitioner's pleadings are replete with sound and on point authority based on well settled legal theory. Petitioner contends that none of them was ever read.

On February 10, 1994, respondent's demurrer and motion to strike were heard. The demurrer

ERROR. Only respondent was heard. When petitioner asked to be heard, the court said "There is no legal right to oral argument." This is one of the many abuses petitioner prays to have corrected. The judge was apparently right, but bad law makes bad decisions. The right to be heard in court may be without legal foundation, but it is taken for granted. The entire room of spectators, parties and lawyers gasped.

PET.APP.6 Annotated PAGE 6 OF OPINION [con't]
was sustained as to all causes of action, with leave to amend, and the motion to strike was ordered off calendar, as moot. The same day,

ERROR AND MISLEADING STATEMENTS: There follows a long list of petitioner's pleadings repeatedly asking the State courts to take notice of satisfaction, protested unsigned unilateral lease on which all of the instant litigation is based, and request for relief from vexatious multiplIicity of litigation. Petitioner never appealed a demurrer. Petitioner appealed lack of jurisdiction and void orders. No court ever heard, no court ever commented. All requests and petitions to notice were denied. Petitioner appealed a second time (on February 22, 1994) and the action #2 began its nearly six month aberrational jurisdiction simultaneously in trial court and ending appeal. Respondent tried to resurrect this bizarre phenomenon in April of 1996, but was rejected by a judge of integrity in trial court. Even after said judge's note to the file room, respondent's disregard for the law never appeared on the registry of actions, and the"Request for Trial Setting" has disappeared from petitioner's files (see supra text p.14 and fn.7). It just "never happened."

appellant renewed her application for writ of supersedeas to this court, and also the same day, this court denied it.

14/6 RELEVANT

On February 22, 1994, appellant filed a notice of appeal, purporting to appeal from superior court's order of February 10, 1994.

OMISSION Appeals were for"void" order Further actions were taken after this date but at this stage they are not relevant to what we

ERROR. The "not relevant" "further actions" appear to be petitioner's, as none of petitioner's contentions is

PET.APP.6 Annotated PAGE 6 OF OPINION [con't]

analysed in this Opinion. The few that are mentioned are discarded with inappropriate reasoning and authorities. The most glaring is many case citations supporting nonappealability of sustained demurrers whereas in fact petitioner, in all three appeals, never appealed demurrers. Petitioner did appeal repeatedly lack of jurisdiction and void orders.

must decide. It is sufficient to notice that the underlying action is still pending and we have not been advised that a final judgment has been entered.

ERROR AND MISLEADING STATEMENT. "(W)e have not been advised (re) final judgment." It is the duty of the State appellate court to determine such questions on appeal. Code and common law dictate that the judgment is final by payment and by voluntary dismissal without addressing the prayer for attorneys fees. Common law dictates that this amounts to forfiture of all future action on the same attrney fees [see supra text passim and especially Carroll v. Import Motors (text pp.11,15), which is never mentioned in the opinion which analyses the strict policy against multiplicity of litigation mandate of forfeiture of action #2.

3. Respondent's motion to dismiss.

On April 19, 1994, this court granted appellant's motion to consolidate the two appeals. On May 22, 1996, respondent filed a motion to dismiss only the appeal from Superior Court case No. SC027184, the breach of lease case. Ruling on that motion was deferred until hearing on the merits of the appeals.

Annotated PAGE 7 OF OPINION

The motion is made on the ground that the order appealed from is not an appealable order. The notice of appeal, dated February 22, 1994,

states that the appeal is taken "from the February 10, 1994 order on Superior Court case #SC023196 in which the Trial Court refused to take required judicial notice of facts in case #SC023196 which render case #SC027184 fatally defective, and therefore the order moot."2

ERROR. The second appeal was altered by replacing the word "moot" for the word "void" which was still in place at time (February 22, 1994) of filing. This of course changes the meaning of the appeal, from appealable to nonappealable, to help respondent prevent petitioner from ever being heard. State courts complied at all levels.

Although the notice of appeal states that it is from a February 10, 1994 order in case No. SC027184, it is apparent that appellant meant the February 10, 1994 order in case No. SC027184, as that is the case in which the notice of appeal was filed, and there is no order of that date in the record on appeal in

ERROR. More minutiae, but this time the result of alteration, and with serious and damaging consequences to petitioner. Petitioner did not make this error. The third appeal is the only one appearing to be intact (to date), and appeal #2 was substituted for appeal #3 in the #BO86583. Pierson protested, with many exhibits and explanations, in her opposition to motion to dismiss. No one heard. At present, it appears that there is no right to be heard. At this time, one party litigation prevails where power exerts pressure on State courts.

case No. SC023196. The February 10, 1994 order is a minute order sustaining respondent's demurrer to all seven causes of action on appellant's cross-complaint, with leave to amend.

ERROR: "with leave to amend" means stripping petitioner of all affirmative defenses and allowing one inapplicable defense chosen by (?) State court?

PET.APP.6 Annotated PAGE 7 OF OPINION [con't]

Appellant's (sic) has filed numerous documents in opposition to the motion to dismiss and for augmentation and clarification of the record. She has also sought to have us take judicial notice of numerous items, None of the filings are relevant to the legal issues

> ERROR. Petitioner contends that the above statement, "None of [petitioner's] filings are relevant," would be more accurate if it read "we have read none of petitioner's filings."

which must be decided at this stage and therefore we do not review them here.

DISCUSSION

> NOTE: Appealability could stand alone on the numerous misleading omissions and errors in the "Statement of the Case" section (Opinion at 2-7). Therefore petitioner will briefly limit her notations for "Discussion" to the authorities cited, all of which are inapplicable. The many more misleading and detrimental inferences and comments will be supplied if this Court so wishes. ERRORS: Opinion pages 8 and 9 are convoluted with misrepresentations, distortions and inapplicable supporting authorities. Petitioner has addresed most in "Statement of the Case."(id.)
>
> Petitioner claims appealability is not the issue where the unsigned contract which supports it is not binding; where the laws which support respondent are constitutionally questionable; where respondent violates the strict policy against multiplicity of litigation; where litigation is a civil form of double jeopardy extremely prejudicial to petitioner; where petitioner is penalized twice on the same costs on appeal; and where the court refused to hear petitioner on any of the above

PET.APP.6 Annotated PAGE 7 OF OPINION [con't]
determining factors and constitutional questions. The most egregious State court omission is petitioner's argument regarding appealability supported by many cases and treatises (Witkin, Rutter, and CEB. see table of authorities for citations).

1. The unlawful detainer appeal.

The appeal in the unlawful detainer action was taken from the clerk's entry of dismissal without prejudice, upon respondent's request, and from the Superior Court's "subsequent affirming order ... at a November 05, 1993 hearing..." The court's minute order of that day does not mention the voluntary dismissal. Appellant is apparently intending to appeal from the Superior court's refusal to dismiss the already dismissed action. On November 5, 1993, at a hearing on a motion by appellant to amend her

---

2 Also stated in the Notice of Appeal is the the following: "Appellant-defendant was not allowed to speak at the hearing, the Court having said, 'There is no legal right to oral argument.'"
ERROR. This is one of the many forms of deprivation of free speech rights in courts which petitioner Pierson claims violate the First Amendment.

Annotated PAGE 8 OF OPINION
answer, respondent's counsel appeared and announced that he had dismissed the action. Appellant asked the court to change the dismissal to one with prejudice, and the court informed her that it had no such authority. After some further discussion, the court stated, "The Court will not make that order. It's just not before the Court." Appellant then filed her motion to vacate the clerk's entry of dismissal without prejudice. That motion was denied on December 15, 1993. On March 12, 1996, appellant filed a declaration explaining that it was her intention to appeal from the order of
ERROR: This first notice of appeal was filed On December 23, 1993 [Not as Opinion falsely

states, "March 12, 1996"]. See Pet.App.14. The attempt to make it appear that petitioner waited three years to appeal is one of the most capricious, arbitrary uses of selective discretion petitioner has encountered.

December 15, 1993, denying the motion to vacate.3 Appeal #1 Line 3 is three-fourths erased. After mutilation of the ground for appeal, it reads:

"Los Angeles, from --- <blank space> ----------

whereas it originally read:

"Los Angeles, from trial court's denial of Pierson's MOTION TO VACATE

Said appeal was personally presented for filing on December 23, 1993 with both #SC023196 and #SC027184, i.e. the entire litigation, in the caption, but the appellate division of State superior court refused to accept said notice of appeal unless defendant/petitioner erased and initialed the second action. Please take notice (see Pet.App.10) that said notice was filed one week (not three years) after State trial court's denial of defendant's motion to vacate respondent's voluntary "dismissal without prejudice" and enter different judgment of "dismissal with prejudice." Petitioner thought payment accepted ended the litigation. However, despite the fact that petitioner had paid more tha owed (see Pet.App.10) respondent has filed another lawsuit for the same matters.

Neither the clerk's entry of dismissal nor the denial of appellant's motion to vacate it is appealable. A plaintiff may dismiss an action with or without prejudice at any time prior to the commencement of trial, so long as the defendant has not filed a cross-complaint and no motion to transfer is pending. (Code.Civ.Proc., #581, subds, (b)(1),(i.) As appellant had not filed a cross-complaint or ERROR. Appellant did file a cross-complaint. From #SC023196 Answer (1993) to #BO86583 opening brief (1996), petitioner seeks affirmative relief.

PET.APP.6 Annotated PAGE 8 OF OPINION [con't]

motion to transfer when respondent requested a dismissal, voluntary dismissal was available to the plaintiff as a matter of right. (See Associated Convalescent Enterprises v. Carl Marks & Co., Inc. (1973) 33 Cal.App.3d 116, 120; Cook v. Stewart McKee & Co. (1945) 68 Cal.App.2d 758, 760-761.)

ERROR. Neither Associated Convalescence nor Cook pleadings seek affirmative relief. Both regard demurrers. Petitioner did not appeal demurrers. Petitioner appealed lack of jurisdiction and void orders. An appeal will lie from a ministerial act when voided by court's discretion. Refusal to use discretion is itself abuses of discretion (see Pet.App.11).

The clerk's entry of dismissal upon a plaintiff's request is a ministerial act, not a judicial act, and no appeal will lie from it. (Associated Convalescent Enterprises v. Carl Marks & Co., Inc., supra, 33 Cal.App.3d at p. 120; Cook v. Stewart McKee & Co., supra, 68 Cal.App.2d at p. 760.)

---

3 The declaration is part of a document entitled, "Correction and Explanation of Deletion in Notice of Appeal #1, Filed December 23, 1993 and Subsequently Mutilated." In it, appellant claims that "a pattern of cunningly contrived set-ups and harassment" an unknown "perpetrator" "mutilated" the notice of appeal. We will disregard these accusations and accusations of fraud in other papers filed by appellant, as they are matters outside the record which may not be considered on appeal. (See Shoemaker v. Goldman (1934) 2 Cal.App.2d 229, 230.)

ERRORS: Shoemaker concerns attorney and client, a valid contract, and absence of evidence of fraud or unfair dealings, holding that accusations of fraud are trivial matters outside the record. In the instant case, the mutilation of petitioner's first Appeal (12/23/93, Pet.App.14) made it appear that

PET.APP.6 Annotated PAGE 8 OF OPINION [con't]
petitioner was appealing the minute order, whereas petitioner plainly stated in the appeal that the appeal was "from Superior Court's denial of Pierson's motion to vacate" (erased from the record with blank space unsanitized). Thus mutilation of files within the record, becomes the record, and falsely changes the nature of the procedure. Petitioner is pro se, obstructed from legal help. Someone is laughing at the law and contemptuous of the courts while destroying Petitioner through the overburdened judicial system.

Annotated PAGE 9 OF OPINION

Once the action was dismissed, the trial court had no further jurisdiction in the matter, and could only deny the motion to vacate. (See Gherman v. Colburn (1971) 18 Cal.App.3d 1046, 1050.) There is no appeal from the denial of a
ERROR. Gherman defendant "had not counterclaimed." Petitioner had.
motion to vacate a non-appealable order, with limited exceptions not applicable here. (See Howard v. Lufkin (1988) 206 Cal.App.3d 297, 300.)
ERROR. Howard holds that a denial of motion to vacate order IS appealable, using the same argument and code (CA Code Civ. Proc #663) cited by petitioner. Howard is cited as "exceptions not applicable here," even though Howard is the rule which petitioner followed. This same Opinion states on page 4 that "On November 18, 1993, appellant filed (motion to vacate) .. CCP #663." On page 8, Howard, the exception to the rule of nonappealability under CCP #663, is "not applicable here." Respondent knew petitioner would study the Opinion carefully, and that it would be unlikely that anyone else would have the time or interest in doing so. Even the writer may have failed to notice that the on point case supporting appealability of

PET.APP.6 Annotated PAGE 9 OF OPINION [con't]

petitioner's appeals is "not applicable here." It is so egregious that it must be a joke on pro se representation: a pro se might have law and fact on her side, but who will ever know or care?

"[A]n order refusing to vacate a prior order is not itself appealable. Where the original judgment or order is not the subject of appeal it cannot be made reviewable by the device of moving to set it aside and appealing from the order denying the motion. [Citation.]" (Title Ins. & Trust Co. v. Calif. etc. Co. (1911) 159 Cal. 484, 487.) Further, a dismissed defen-dant becomes a stranger to the action, with no standing to bring an appeal. (Butchart v. Moorhead (1929) 101 Cal.App. 659, 662; Cook v. Stewart McKee & Co., supra, 68 Cal.App.2d at p.761.)

ERROR: Title Ins. (1911) and Butchart (1929) are well over fifty years old. Titie Ins. denied vacation under CA code of civ. Proc. #963, long ago repealed (1968). The conditions are inapplicable. Appealability of denial of Petitioner's motion to vacate dismissal where State court had refused to use discretion is supported by many recent cases, particularly Howard (see supra p.9, which the court says is "not applicable here." Petitioner also had cited many other cases and Witkin, Rutter, and CEB treatises (see table of authorities citations). Butchart concerns "ineffectual appeal for lack of timeliness (filed 61 days after order). Petitioner filed notice of appeal #1 SEVEN days (December 23, 1993) after December 15, 1993 order, with 53 days still available to appeal.

"It is of course fundamental that an appellate court has no appellate jurisdiction to entertain and pass upon an appeal from a non-appealable order. [Citations.] If it be

ERROR AND OMISSION. The court did not give a reason why said court considered the instant appeal "non-appealable."

This use of a case (Butchart) based on untimeliness ties in with the false and misleading statement (supra at 8) justaposing "(motion denial) December 15, 1993. On March 12, 1996, appellant filed .. intention to appeal," where appellant had appealed over three years earlier (on December 23, 1993). The repetition of this error gives the appearance of deliberate deceit excercised in a cavalier manner. Courts, respondents and attorneys know pro se petitioner is helpless (obstruction of legal help is easy in David/Goliath controversies).

determined that the appeal is from a non-appealable order and the reviewing court is without appellate jurisdiction that court has no recourse other than to dismiss the appeal on its own motion. [Citations.]" (Efron v. Kalmanovitz (1960) 185 Cal.App.2d 149, 152.) Therefore, we must dismiss the appeal from case No. SC 023196.

ERROR. Efron bears no relation to the instant appeals. In Efron the order "bears no relation to the main issue." The instant appeals ARE the issue: post judgment orders are void for lack of jurisdiction.

2. The motion to dismiss the breach of lease appeal:

Appellant's notice of Appeal, filed February 22, 1994, states that the appeal is taken from the order of February 10, 1994, in Superior Court case No. SC027184. That order sustained respondent's demurrer to appellant's cross-complaint with leave to amend. An order sustaining a demurrer is not appealable. (Evans v. Dabney (1951) 37 Cal.2d 758, 759.)

ERROR. Evans regards appeal of order sustaining demurrer. Petitioner does not. Petitioner appeals void post-judgment orders lacking jurisdiction.

PET.APP.6 Annotated PAGE 9 OF OPINION [con't]

A notice of appeal from such an order will be construed to be an appeal from a subsequent judgment of dismissal, but where no judgment is subsequently entered, as here, the appeal must be dismissed. (See Bledsoe v. Informative Research (1967) 247 Cal.App.2d 684, 685-686.)

ERROR. Bledsoe regards appeal of order sustaining demurrer. Petitioner does not. Petitioner appeals void post-judgment orders lacking jurisdiction.

Appellant has correctly pointed out that notices of appeal are to be liberally construed. (See Cal. Rules of Court, rule 1(a).) However, "while

Annotated PAGE 10 OF OPINION

notices of appeal must be liberally construed to permit, if possible, a hearing on the merits, and no technicality should prevent such a hearing [citation], this court has no power to amke appealable an order which is nonappealable. The problem is one of jurisdiction. If appellants appealed from a nonappealable order we cannot remedy the defect.. (Futlick v. F.W. Woolworth Co. (1957) 149 Cal.App.2d 296, 298.)

ERROR. Futlick regards appeal of order sustaining demurrer. Petitioner does not. Petitioner appeals void post-judgment orders lacking jurisdiction.

Appellant has sought to file an amended notice of appeal.4 An appellant may be allowed to amend a notice of appeal, where good cause

ERRORS: Appellant did not seek to file an amended notice of appeal. Appellant filed a unified notice of all three appeals to show their nonseverability and to correct the alterations so that the court could know the content of the properly and timely filed appeal. Almost all of Opinion page 9 is incorrect.

is shown. (People v. Jones (1995) 10 Cal.4th 1102, 1108-1109, fn.4.) If so allowed, it will relate back to the date of filing the original notice of appeal. (See Beltram v. Appellate Department (1977) 66 Cal.App.3d 711, 715.) It

ERROR. Jones concerns an amended notice of appeal. Jones is inapplicable. Petitioner Pierson merely tried to expose the detrimental alterations to the court. Beltram supports liberal construction "to further the policy of hearing legal disputes on their merits and avoid a windfall for one party as the result of another's technical procedural mistake." (at 715-716). Beltram holds the appeal good as should the courts honor the policy in the instant actions.

is appropriate to deny the request where much time has passed, and insufficient justification is shown. (See People v. Earls (1992) 10 Cal. App.4th 184, 193.) Here, more than two years have passed since the original notice of appeal was filed. The matter is fully briefed.

ERROR. "Here, more than two years have passed." A blatant disregard for the facts adds to the obvious prejudice throughout this Opinion. Petitioner filed a correction, not a request for amended appeal, to show nonseverability and to correct the alterations of the original appeals. As State court apparently did not read the pleading, State court in not in a position to determine whether the March 12, 1996 "correction" could be considered an amendment, but this is inconsequential, as the original December 23, 1993 appeal (also the 02/22/94 and 08/05/94 appeals) stands on its own.

Appellant's request includes a request to consolidate this consolidated appeal with a previously dismissed appeal. As justification

ERRORS. The third appeal had not been dismissed when consolidation of #SC023196/#SC027184 third appeal with #SC023196/#SC027184 first and second appeals was requested. This is not a typographical error. The three appeals on the two actions are identical and all should have been consolidated.

PET.APP.6 Annotated PAGE 10 OF OPINION [con't]
for the consolidation and the amended notice of
ERRORS:: An "amended notice"
was never requested.
appeal, she argues that the disimissal of

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4 The "clarified" notice of appeal states, "[Appellant] appeals .. from: (1) Superior Court's series of abuses of discretion in November 05, 1993 [sic] failure to exercise its discretion by not ruling on plaintiff's dismissal Without [sic] prejudice and its December 15, 1993 order denying Pierson's motion to vacate. Said judgment, conforming to the final judgment rule, of case #SC023196 denied Pierson complete relief and allowed plaintiff further litigation on the same matter: [sic] and (2) Plainiff's filing, two weeks after dismissing action #SC023196 and 19 days after Pierson's payment, another action (#SC027184) for more money on the same subject matter in violation of the strict policy against multiplicity of litigation. Further appeals (02/22/94; 08/05/94) are based on the December 23, 1993 appeal of the abuses of discretion in the previous final judgment. All case #SC027184 acts/orders are therefore in excess of jurisdiction and void."

Annotated PAGE 11 OF OPINION

"the breach of lease appeal would effectively eliminate her appeal in the unlawful detainer action, and her "right" to be free from a "multiplicity of litigation."5

"Appellant's notice of appeal appears to acknowledge that there is no appealable order in the breach of lease matter, rather, all three appeals are "based on" the appeal of the superior court's refusal to vacate voluntary dismissal of the unlawful detainer action. Appellant again acknowledged this at oral argument, pleading with us to conclude this litigation once and for all. She expressed her distress in connection with both proceedings utilizing the term "splitting causes of action." She articulated that she believed

PET.APP.6 Annotated PAGE 11 OF OPINION [con't]
respondent improperly split his original cause of action seeking the exact same damages. In connection with this action, we construe her statement as a claim of res judicata, an affirmative defense which, while inartfully stated, appears to be the thrust of the facts plead in her answer to case No. SC 027184.[n]6.

This court may, as appellant has pointed out, treat a notice of appeal from a nonappealable order as an application for a writ. (See Olson (1983) 35 Cal.3d 390, 400-401.) Such action by the court is discretionary, taken where justice "cries out" for immediate appellate review. (Art Movers, Inc. v. NiWest, Inc.(1992) 3 Cal.App.4th 640, 650.) Unfortunately, at this point the procedural posture of the action does not allow us to do so. It does not appear that the trial court has yet been presented with an occasion

---

5 On August 5, 1994, appellant noticed an appeal from a later decision by the superior court in the breach of lease case, No. SC 027184. We dismissed that appeal on May 7,1996, and review was denied by the Supreme Court on July 24, 1996. Therefore, that appeal is no longer pending and there is nothing to consolidate with this consolidated appeal. Appellant's request is denied.

6 We do not intend by this statement to imply one way or another about thye validity of such a defense to this action. The trial court will have to address that at the proper time.

Annotated PAGE 12 OF OPINION [con't]
to rule on whether the voluntary dismissal of the prior action requesting attorneys fees operates as res judicata to preclude this action."

For the foregoing reasons we dismiss the appeal from the order granting the demurrer to

ERROR. Petitioner does not appeal from an order granting a demurrer. Petitioner appealed void postjudgment orders lacking jurisdiction. This subject was

not addressed by the court. Therefore the entire Opinion in inapplicable.

the cross-complaint and decline to treat the matter as a writ proceeding.7

DISPOSITION

The motion to file an amended notice of appeal is denied. The consolidated appeal is dismissed. The motion to consolidate this appeal with case No.BO86583 is denied as moot. The requests for judicial notice, augmentation, and correction are denied as moot. Costs are awarded to respondent.

NOT TO BE PUBLISHED

ERRORS IN DISPOSITION are discussed in detail in the attached text of Pierson's petition for writ of certiorari. Denying requests for judicial notice, augmentation, and correction are in fact denial of Pierson's principal aut orities and arguments Petitioner Pierson contends that this penalty of costs on appeal, the second time for the same appeals, constitutes punishment of double jeopardy.

HASTINGS, J.

We concur:
EPSTEIN,Acting P.J.
ARANDA,J.*

---

7 Because we are dismissing the appeals, we do not rule on appellant's various requests for judicial notice, augmentation and correction.
*Assigned by the Chairperson of the Judicial Council.

========== NOTE

This false misleading Opinion should be vacated for its undisguised bias and prejudice. Petitioner Pierson should be allowed a federal court near Pierson's Washington D.C. residence to hear her arguments. Peitioner has attended California State court hearings for over four years. The cost has substantially reduced petitioner's assets. Respondent attorney has conflict of iuterest representing directors against share-holder while writing unilateral, unconscionable, adhesive, possibly unconstitutional contracts between the two.

PET.APP.7
First dismissal (05/07/96) without hearing, awarding costs on appeal (erased from document, see first remittitur) and mooting consolidation

IN THE COURT OF APPEAL
OF THE STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT
DIVISION FOUR

[Order granting dismissal without hearing and denying consolidation as moot]

WILSHIRE TERRACE CORPORATION, Plaintiff and Respondent v. JOAN GODWIN PIERSON, Defendant and Appellant	B086583 (Super.Ct.No. SC027184 ORDER

SEAL: COURT OF APPEAL.SECOND DIST.
FILED
MAY 7, 1996
JOSEPH A. LANE Clerk
R. TAYLOR Deputy Clerk

THE COURT:*

The motion to dismiss the appeal in this case is granted as the appeal is taken from a unappealable order (fnA4). The motion to consolidate this appeal with case number B081436 is denied as moot (fnA4).

<signatures>

*VOGEL (C.S.),P.J., EPSTEIN,J., HASTINGS,J.

fnA7. The appeal was from an appealable postjudgment void order. The request for consolidation was for the same entire case #SC027184, being appealed in both #B081436 and in B086583 because trial court refused to stop proceedings until after three appeals.

The opinions of dismissed action #2 Petitioner contends are all a nullity on ground that said action violates the strict policy against multiple litigation.

PET.APP.8
Second Remittitur (02/21/97) with
costs on appeal awarded to respondent

==========

COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOR THE SECOND APPELLATE DISTRICT
DIVISION: 4

Joan Godwin Pierson
10375 Wilshire Blvd
9b
Los Angeles, CA. 90024

RE: Wilshire Terrace Corporation
vs.
Pierson, Joan Godwin
2 Civil BO81436
Los Angeles NO. SC023196 [should be "SC023196/SC027184"]
Judge: RAMIREZ, A.

** REMITTITUR NOTICE **

Notice is hereby given that the Remittitur has been issued this date and that the opinion, decision or order entered in the above entitled cause on 11/05/96 is now final.

** Dismissed By Opinion **

Respondent(S) To Recover Costs On Appeal.

JOSEPH A. LANE, Clerk
By: Deputy Clerk
[stamped] "FEB 21, 1997"

==========

fn for A8: "Los Angeles NO." is cited as "SC023196" in this REMITTITUR. It should read SC023196/SC027184. See PET.APP.__ which cites "Los Angeles NO." as "SC023196," for more detailed explanation for the many errors in every aspect and level of this litigation, which ensure that there is no indication of the two appeals, BO81436 AND BO86583, being on the same actions, as they, in fact, are. Judge's name is also wrong. Petitioner never heard of "RAMIREZ." Correct judge's name: Commissioner Bruce Mitchell.

PET.APP.9
First remittitur awarding
costs on appeal to respondent 08/19/96

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COURT OF APPEAL OF THE STATE OF CALIFORNIA
FOR THE SECOND APPELLATE DISTRICT
DIVISION: 4

Joan G. Pierson
10375 Wilshire Blvd
#9B
Los Angeles, CA. 90024

RE: Wilshire Terrace Corporation
VS.
Pierson, Joan Godwin
2 Civil BO86583
Los Angeles NO. SC027184 [should be "SC023196/SC027184"]

* * REMITTITUR NOTICE **

Notice is hereby given that the Remittitur has been issued this date and that the opinion, decision or order entered in the above entitled cause on 05/07/96 is now final.

* * Dismissed By Motion * *

Respondent(S) To Recover Costs On Appeal.
JOSEPH A. LANE, Clerk
By: Deputy Clerk
[stamped] August 19, 1996

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fn for A2: "Los Angeles NO." is cited as "SC0271884" in this REMITTITUR whereas it should read SC023196/SC027184. See Appendix 1 which cites "Los Angeles NO." as "SC023196," for more detailed explanation for the many errors in every aspect and level of this litigation, which ensure that there is no indication that the two appealS, BO81436 AND BO86583, are on the same actions.

PET.APP.10

One of 3 letters attached to $39,222.43 check (or copy) to respondent, respondent c/o management, respondent's attorney, as condition of payment.

==========

JOAN GODWIN PIERSON
September 30, 1993

WILSHIRE TERRACE CORPORATION
c/o Morris M. Maltz, president
Wilshire Terrace, wt fax #310-274-6507
10375 Wilshire Boulevard mm fax 310-247-7196
Los Angeles, California 90024

RE: PAYMENT IN FULL CHARGES FOR UNIT 9B

Dear Mr. Maltz:

Enclosed is a copy of my September 30, 1993 letter to Wilshire Terrace Corporation personally delivered to George Elkins Management Company and my Wells Fargo check #582 for $$39,222.43 (thirty nine thousand two hundred twenty two dollars and forty three cents) as payment in full for statement charges through October 31, 1993.

At any time you wish to replace my certificate of shares, restore the services provided the other shareholders and receive a valid lease agreeable to all parties please let me know. Your attorney would not discuss my last offer of settlement. Naturally, having paid the sum cited on the Wilshire Terrace Corporation statement plus the October home-owners' fees, my past offers to settle are no longer valid. I sincerely hope that now you will be willing to show your good will by communicating directly between the parties involved and not causing further legal costs to the shareholders. If the Wilshire Terrace Corporation Board of Directors is willing to cooperate in resolving the last remaining problems directly, I believe we will be able to live in harmonious peaceful quiet enjoyment of our homes.

Sincerely, JOAN G. PIERSON

encl copy of Wells Fargo check #582 for $39,222.43
cc: Wilshire Terrace Corporation management George Elkins, Michael Ring, Mitchell, silberberg & Knupp

GEORGE ELKINS COMPANY-0792
499 N CANON DR
BEVERLY HILLS, CA 90210
213/272-3456

07/26/93 *** STATEMENT ***

MRS. JOAN PIERSON
10375 WILSHIRE BLVD., Unit: 9B
LOS ANGELES, CA 90024

Page: 3

Date	Description	Charges	Paid or appl	Balance Due
	SUBTOTAL	36,707.68	0.00	36,707.68
	NEW MONTH'S CHARGES AND APPLIED CRs/PREPAIDS			
08/01	MONTHLY HOMEOWNER FEES	830.00		830.00
	MONTHLY GRATUITY FEE	8.25		8.25
	SUBTOTAL	838.25	0.00	838.25
	STATEMENT TOTAL	37,545.93	0.00	37,545.93

582

WELLS FARGO BANK

WESTWOOD VILLAGE OFFICE 10925 KINROSS AVENUE LOS ANGELES CA 90024 18-24/1220/7 812

September 30 1993

PAY TO THE ORDER OF Wilshire Terrace Corp. $39,222.43

Thirty Nine Thousand Two Hundred Twenty-Two and 43/100 DOLLARS

J.G. PIERSON
10375 WILSHIRE BLVD #9B
LOS ANGELES, CA 90024

MEMO paid in full through OCTOBER '93

1:122000247: 582 0812 40545511"

STATEMENT TOTAL 37,545.93

MRS. JOAN PIERSON
10375 WILSHIRE BLVD.
Unit: 9B
LOS ANGELES, CA 90024

SEND YOUR REMITTANCE TO:
GEORGE ELKINS COMPANY-0792 000460
499 N CANON DR
BEVERLY HILLS, CA 90210
213/272-3456

EX R

EXHIBIT R

BEST AVAILABLE COPY

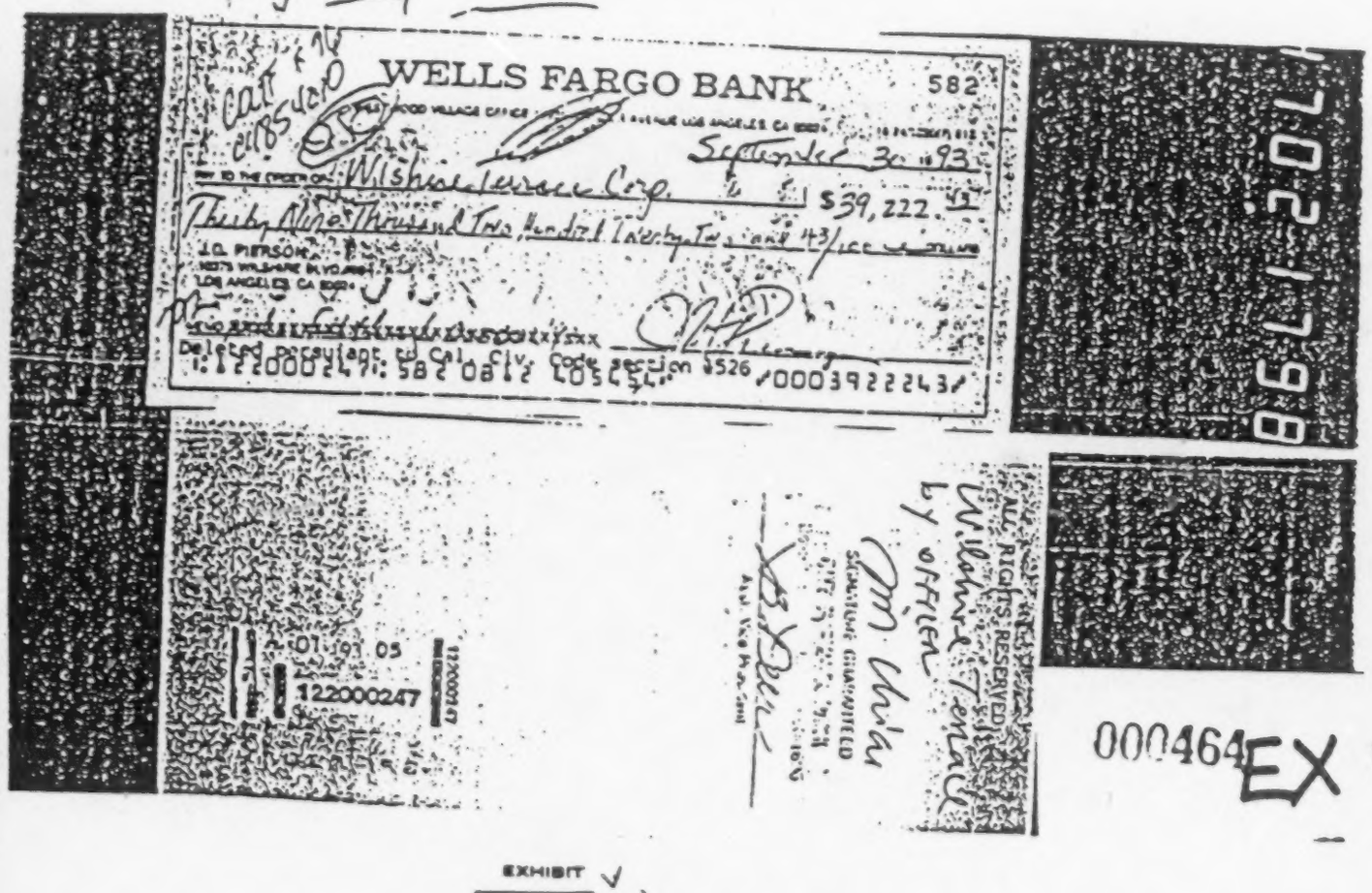
10/14/93

This letter is to verify that on oct. 5, 1993 Check # 582 in the amount of $ 39,222.43 Cleared the account of J.G. Pierson # 0812-405454. If You have any questions Please contact me at 310-208-8411.

Sincerely.

Frank Caruso

Branch Manager



000464 EX V

56

Summary of petitioner's principal authorities including new cases in #BO81436 Supplemental Brief entitled "Appellant's Augmentation etc." on actions #SC027184 and #SC023196 [granted on February 26, 1996, filed on March 11, 1996] as part of the record. State Court mooted the entire pleading, thus all principal authorities. Carroll v. Import Motors Inc. (1995), 33 Cal. App. 4th 1429, 39 Cal.Rptr.2d 791, here first introduced into the instant litigation, is the core of petitioner's argument on multiplicity of litigation (civil double jeopardy).

==========

"SUMMARY OF ARGUMENT

'This is an appeal of law, yet it involves factors of the highest national concern: whether an American citizen, whose home has no encumbrance, can be made homeless by deceitful legal procedure; whether greedy landlords (such as Co-op directors) can take her home by claiming right to "attorney fees" as "rent" by protested, unilateral, undated, unsigned lease.

This tactic threatens all citizens' rights to their property, owned or rented. Obligation to protect this vital public interest requires review of stare decisis which weighs heavily in the area of statutory construction. California Code of Civil Procedure ("CCP") #581 and #426.30 are analysed by Carroll v. Import Motors Inc. (04/07 /95), 95 DAR 4418; 33 Cal. App. 4th 1429, 39 Cal.Rptr.2d 791 (Carroll) citing strict public policy against multiplicity of litigation. Hartford Accident and Indemnity Co. v. Gonzalez (1994) 31 Cal. App. 4th 54, 36 Cal.Rptr.2d 769 (Hartford) interprets legislative intent to liberally construct CCP Act dependence on CCP #4, augmenting Wells and Hawkins [fn(1) p.5]. In Re Marriage of Tamraz (1994) 24 Cal. App.4th 1740, 30 Cal. Rptr.2d 233 (Tamraz) interprets CCP #581, defining "affirmative relief." Richards v. King, 95 DAR 14621 (Richards) holds that

failure to exercise discretion is in itself abuse of discretion. Roadway Express v. Piper (1980) 100 S.Ct. 2455 states: "attorneys have multiplied litigation vexatiously." Pierson paid in 1993 without receiving her share certificate (property title)."

The constitutionality of CCP #581 and the public interest in the "strict policy against multiplicity of litigation" (Carroll citing CCP #426.30) are at issue in the instant appeal. At issue too is trial court's failure to exercise its discretion, itself an abuse of discretion (Richards).

Pierson paid before action #2 was filed (see #BO81436 opening brief 1,5,6,18,and 20). Augmented authority establishes Pierson's right to de novo review to end litigation: Legislative intent of CCP #581 forbids unconditional dismissal; CCP #426.30 mandates hearing all related causes of action in a single action; legislative "sine qua non" of affirmative relief bars further action; strict public policy against multiple litigation bars all related litigation.'

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fnAP11. State Court of Appeal does not comment on any of petitioner Pierson's authorities cited for the first time in the above Supplemental Brief. Carroll was determined about six months (April 1995) after petitioner filed her first opening brief (October 1994). Appellant Pierson discussed and the court repeated said foremost support for appellant's argument, but did not mention it in its Opinion.

PET.APP.12
State Court of Appeal denial (11-18-96) of appellant's request for copy of oral hearing.

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OFFICE OF THE CLERK
COURT OF APPEAL
STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT
JOSEPH a. lANE, cLERK

DIVISION: 4, DATE: 11/18/96

RE: Wilshire Terrace Corporation
VS.
Pierson, Joan Godwin
2 Civil BO81436
Los Angeles NO. SC023196 should read "SC023196/SC027184"

THE COURT:
Appellant's request for copy of oral transcript is denied.

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fn for A4. Appellant/petitioner Pierson requested a copy of transcript, a tape, or just a chance to look at it and accurately copy phrases needed for reference or quotation in later pleadings. Once again, the denial is misleading.

PET.APP.13

Text of petitioner Pierson's "UNIFIED APPEAL," (NOT an amended appeal) in which all three appeals on on #SC023196/#SC027184 are unified.

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CALIFORNIA COURT OF APPEALS
SECOND DISTRICT, DIVISION FOUR

WILSHIRE TERRACE CORPORATION, Plaintiff,	) Case numbers) SC023196 and
vs	) SC027184
JOAN GODWIN PIERSON et al Defendants.	) NOTICE OF APPEAL

JOAN GODWIN PIERSON et al, Defendant (hereinafter "Pierson") appeals to the Appellate Court of the State of California, County of Los Angeles, pursuant to Code of Civil Procedure #904.1(a)(1) from:

(1) Superior Court's series of abuses of discretion in November 05, 1993 failure to exercise its discretion by not ruling on plaintiff's dismissal Without prejudice and its December 15, 1993 order denying Pierson's motion to vacate. Said judgment, conforming to the final judgment rule, of case #SC023196 denied Pierson complete relief and allowed plaintiff further litigation on the same matter: and

(2) Plaintiff's filing, two weeks after dismissing action #SC023196 and 19 days after Pierson's payment, another action (#SC027184) for more money on the same subject matter in violation of the strict policy against multiplicity of litigation. Further appeals (02/22/94; 08/05/94) are based on the December 23, 1993 appeal of the abuses of discretion in the previous final judgment. All case #SC027184 acts/orders are therefore in excess of jurisdiction and void.

Original Dated: December 23, 1993
Unification Dated: May 28, 1996

<signature>
JOAN GODWIN PIERSON, In Pro Per

PET.APP.14
Altered first appeal (see line 3 of notice of appeal) of ##s SC023196/SC027184 filed December 23, 1993. Petitioner crossed out and initialed the second action number because the court refused to receive the notice of appeal on both.

Joan Godwin Pierson
10375 Wilshire Boulevard #9B
Los Angeles, California 90024
telephone 310-278-2886

Joan Godwin Pierson, In Pro Per

FILED
LOS ANGELES SUPERIOR COURT
DEC 23 1993
EDWARD M. KHITZMAN
BY A. WATTS, DEPUTY

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

WILSHIRE TERRACE CORPORATION, Plaintiff,
vs
JOAN GODWIN PIERSON, INDIVIDUALLY AND AS TRUSTEE OF THE JOAN GODWIN PIERSON LIVING TRUST; and DOES 1 through 25, inclusive, Defendants.

Case numbers
SC023196 [redacted]

NOTICE OF APPEAL

FEE RECEIVED
CHECK# 643

JOAN GODWIN PIERSON et al, Defendant (hereinafter "Pierson") appeals to the Appellate Court of the State of California, County of Los Angeles, from

3/4 of line 3 DELETED

the November 4, 1993 clerk's entry of Dismissal Without Prejudice into the case #SC023196 registry of the Superior Court of Los Aangeles, California and subsequent affirming order of by Commissioner Bruce Mitchell at a November 5, 1993 hearing intended for Defendant's Amended Answer, which order enabled Plaintiff Wilshire Terrace Corporation to refile the case for additional money under the new case #SC027184 and new title "Complaint for Breach of Lease."

Notice of entry of said entry and order was never served on defendant Pierson. Defendant Pierson does not know if it was served on any other party.

Dated: December 23, 1993

Joan Godwin Pierson In Pro Per
Joan Godwin Pierson
JOAN GODWIN PIERSON, In Pro Per
for Appellant

000530

* By erasing 3/4 of line 3, the ground for appeal is altered, and the appeal can be challenged as nonappealable. When filed on Decmeber 23, 1993, line three stated grounds that defendant appeals from:

"Superior Court's denial of Pierson's motion to vacate."

61

PET.APP.15

NOTICE AND REPORT TO ALL COURTS OF
RESPONDENT ATTORNEY'S UNPROFESSIONAL CONDUCT

On April 02, 1996 respondent Co-op attorney filed in Trial Court case #SC027184 a request for trial setting of the instant appeal. This was two days before said attorney filed in Court of Appeal a motion to dismiss said appeal (one of 3 appeals on the same case #SC027184). Pierson's June 21, 1996 Report on the month long repercussions of this unprofessional conduct is missing from Petitioner's files, but the April 22, 1996 Notice is herein abstracted:

PLEASE TAKE NOTICE that repondent/plaintiff is attempting to reactivate Superior Court stayed jurisdiction over case #SC027184 issues pending in the Appeals #BO81436 and #BO86583. April 11, 1996 appellant/defendant Pierson requested Court of Appeal to hold a joint hearing of Pierson's opposition to respondent Co-op and request for consolidation of these two appeals.

The following day (04/12) Pierson received notice of a May 06, 1996 Superior court status conference, which had been calendared because of Co-op's improper request for trial setting on matters pending appeal. Pierson was assured by Superior Court that this will be taken off calendar. However, Co-op is still making improper attempts to establish lower court jurisdiction pending appeals on the validity of the entire case #SC027184 for violation of strict policy against multiplicity of litigation.

Co-op's request for Dismissal of appeal #BO86583 is a deception to take back to lower court the same case #SC027184 being appealed in #BO81436. If reviewing court, with exclusive jurisdiction over the entire case, annulls said case, the absurd, vexacious result would be a void case proceeding to trial to the detriment of the judicial system, wasting time and costs of all courts and requiring a fourth appeal. [See also Pet.App.14, mutilated December 23, 1993 appeal #1. erased line changes appeal ground.

False derogatory comments were published on petitioner's first petition.

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The United States Law Week" (11-5-96 at 65 LW 3342), falsely classifies Pierson's civil petition as "member's failure to pay charges." It incudes the word "construction." Neither term appears in the petition. Both terms are false and misleadingly detrimental to petitioner. Why was this printed? Whether self-interested influence on the writer or capricious invention, it was not gleaned from the petition. Petitioner was told that the writer's statements are taken verbatim from the U.S. Supreme Court docket. An accurate statement is, "Cooperative housing directors take money, won't provide title and twice claim attorney fees not owed." Petitioner is repeatedly attacked by co-op directors, who (1) after taking her money, (2) refuse to provide her title (share certificate) without which she cannot sell, and (3) demand in multiple litigation egregious attorney's fees not owed. The Law Week statement is unrelated to Pierson's first petition for certiorari, the only pleading filed in #96-630. Will the courts be influenced by this? Will it nake it more difficult for petitioner to be heard in a court of law? Is publishing damaging misrepresentation of a plea to the Courts prejudicial?

State courts, by splitting actions, consolidating parts, again severing them makes it extremely difficult to follow the litigation. Pierson petitioned this Court to grant and hold a writ of certiorari (#96-630 filed October 22, 1996) after the first dismissal without comment and review denial. The entire litigation was the same as the instant except that the instant second dismissl of the same actions was determined in an Opinion which mooted all petitioner's live constitutional questions and supporting authorities never addressed by any State court. Costs on appeal were twice awarded respondent, without petitioner ever being heard.

The right to Refuse to Contract: Authorities cited in Appellant/petitioner's April 03, 1996 #BO86583 Opening Brief (ignored) and #BO81436 petition regarding new Lease (ignored and mooted).

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Pierson's #SC023196 answer (C.T.I, vol.1) requests affirmative relief from respondent's adhesive unilateral contract which allows eviction, ejectment and/or expulsion. Said answer is supported by Weidman v. Tomaselli (county ct 1975) 365 NYS2d 681 (Weidman); and Gray v. Zurich Ins. Co. (1966) 65 C2d 263 (Gray), with codes and new cases added on appeal.

> "(In Weidman) the court found that because a rental agreement (1) involved a necessity of life, (2) was offered to the tenant on a take-it-or-leave-it basis by one in a superior bargaining position, and (3) contained provisions giving strong advantages to the offeror, it is a contract of adhesion."
> "Gray .. states 'When contracting parties are of unequal bargaining strength and the more powerful bargainer, to meet his own needs, offers a standardized written contract to the weaker party on a 'take it or leave it' basis, the contract carries some consequences extending far beyond orthodox implications. Obligations arising from such a contract inure not alone from the consensual transaction but from the relation of the parties.'" (answer at 91)

Said answer states that Plaintiff had unreasonably, wilfully and maliciously withheld title to defendant's property for over two years while Pierson tried to sell. It has now been seven years. Pierson cites Ca. Civ. #3394 which makes it impossible to sell the property, thus creating damaging alienation to Pierson:

> 'An agreement for the sale of property cannot be specifically enforced in favor of a seller who cannot give to buyer a title free from reasonable doubt.'"

Pierson could give no title at all.

The often changed unsigned Leases are not valid contracts. Nor is the new 1996 Lease. If it were binding by procedure, it would still be unenforceable by unconscionable substantive content and void as against public policy. Said new Lease, disclaimed by, and not signed by Pierson, provides multiple ways for WTC Co-op Directors to take Pierson to court repeatedly by alleged infractions in a Lease full of carefully constructed ambiguity and clauses of outright injury and usurpation.

Said action #1 answer claimed (C.T.I. v.1) that the WTC Co-op unilateral, unsigned, undated Lease used to support its complaint for unlawful detainer was a contract of adhesion, therefore unenforceable:

> "If defendant is subject to a lease, it is the 1980 Lease, not the one offered as Exhibit A in plaintiff's Complaint. (T)he present Lease (would be an) adhesion contract because it substantiallly changed to defendant's detriment the relationship of defendant and plaintiff. The agreements, by-laws and Lease signed by defendant did not allow foreclosure. Foreclosure was made possible only recently by the terms of the new By-Laws, changed October 30, 1991 and the new Lease changed without defendant's knowledge or consent." (answer at 91)

WTC Co-op has tried to evict Pierson and failed. The current attempt to eject Pierson by WTC Co-op has little or no procedural authority behind it and no valid reason. The only other way to forcefully remove a defendant from her home is expulsion. Since there is no valid factual evidence against Pierson, calumny is the only way to destroy her credibility and reputation, a new Lease the only way to enforce expulsion. The new Lease has a clause [#18(f) at 8-9] which allows the Directors to charge "objectionable conduct" at their sole

discretion, without specifying. Lease paragraph #18 (at 8) allows, after a five day arbitrary notice without good cause, physical removal of homeowner, and confiscation of homeowner's personal possessions and "all (homeowner's) right, title and interest (including the entire amount homeowner had paid for his/her unit) in his/her home). The grounds:

> "it being the intention of the parties hereto to create hereby a conditional limitation"

Landlord-tenant law governs California co-ops. Black's Law Dictionary (at 926) defines "conditional limitation" as a device to protect landlord (WTC Co-op Board of Directors), but not the stockholders:

> "In landlord and tenant law, a provision in a lease which gives a landlord added protection by enabling the landlord to end the term before its natural expiration date:"

This might be expeditious, even praiseworthy if it did not allow WTC Co-op Directors) to arbitrarily and prejudicially declare a shareholder "in default" because WTC Co-op didn't want to pay Directors' own attorney fees, incurred unneccessarily by stonewalling a shareholder's rightful possession of her share certificate. It becomes unlawful when shareholder can be deprived of everything with just by an arbitrary five day notice which doesn't even give a reason, which does not allow or give any time for defense and for which landlord (WTC Co-op Directors) has "no liability whatsoever" (ibid.).

The "Standard Addendum" attached to the Lease states (#7 at 21) that said addendum supersedes (the Lease). WTC Co-op Directors appoint themselves "irrevocably" "Attorney-in-Fact" for shareholder-homeowner (#6. at 21). It allows Directors to give instructions to anyone of how to dispose of shareholder-homeowner's possessions, and how to conduct "sale of the Stock or the Lease" (ibid.) which power "may

not be revoked" (ibid.). Coercive waiver of jury trial (Lease #28(c) at 12) allows swift execution. The homeowner watches from afar with his/her hands tied.

This adhesive, unconscionable, unilateral, onerous contract, made by and only for WTC Co-op Directors, must be declared unenforceable before it exposes homeowners to serious and irreversible damages. It is not enough that Pierson disclaims any and all obligation regarding said Lease. Other homeowners are at risk. This type of contract must have legal safeguards to avoid constitutional issues on rights to property. This is a lease for people who have bought their property. The word "lease' here regards a cooperative housing association, a hybred organization owned by the shareholder-homeowners. Blacks' Law Dictionary (at 334) states that the WTC Co-op shareholder-homeowners own WTC Co-op, defining it as:

> "A corporation or association organized for purpose of rendering economic services, without gain to itself, to shareholders who own or control it. The Directors are merely their fiduciary agents. Judicial indorcement of this threatened exercise of coercive power, including eviction, ejectment and/or expulsion and confiscation of owner's property for "Landlord's" (Directors') attorney fees, and coercive waiver of rights to jury trial, would have a constitutionally impermissible chilling effect on all residential leases. The implications affect all contracts.

PETITIONER HAS THE RIGHT RO REFUSE TO CONTRACT

The Constitution of the United States, Art. #1, Sec.#10 is enforced by code and case law. Pierson's second Opening Brief cites Rennick v. O.P.T.I.O.N. Care (1996) 96 ladj DAR 1966 rules for legal right not to enter into contracts. Observing CA. Civ. Code ##1565 self-evident principle of contract law:

"ESSENTIALS OF CONSENT. The consent of the parties to a contract must be 1. Free; 2. Mutual; and 3. Communicated by each to the other. (Enacted 1872.)"

Rennick upholds this well settled law that contracts, and leases are contracts, require free, mutual consent.

"It is a basic tenet of contract law that creation of a valid contract requires mutual assent. Kruse v. Bank of America, 248 Cal. Rptr. 217, 229 (Ct.App. 1988); John D. Calamari and Joseph M. Petrillo, The Law of Contracts ## 11-12 (1970). - - Parties must communicate their mutual consent to enter into a contract. Cal.Civ. Code ## 1550, 1565 (1982 & Supp. 1995)." [p.1969,col.1]

Pierson not only did not consent, but disclaimed any obligation in regard to any express Lease with WTC Co-op.

Pierson has the right not to enter into respondent's unilateral Lease, or any other express Lease with WTC Co-op. An implied lease is sufficient to cover Pierson's timely monthly payments. WTC Co-op continues to accept Pierson's valid monthly payments. Rennick (at 96 DAR 1969) supports Pierson's disclaimer of the 1996 WTC Co-op Lease as a demonstration of manifest intent not to be bound by it.

".. the rights of private parties to enter into contracts also embraces their right not to, and there is no contract where the objective manifestations of intent demonstrate that the parties chose not to bind themselves .. Beck 260 Cal.Rptr. at 242." [96 dar 1969-1970 col 2ff. reference is to Beck v. American Health Group Intern., 260 Cal.Rptr. 237 ((Ct.App. 1988)].

This is a constitutional issue: whether a party to an unsigned contract is bound by our judicial system to said contract and liable for legal penalties under said contract under U.S. Const. Art.I, Sec. #10.